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Before the

CAUCUS ON
INTERNATIONAL NARCOTICS CONTROL

UNITED STATES SENATE

The \$150 Billion Drug Market:
A Dive into the Economics of Cartels

Wednesday, March 2, 2022

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1 THE \$150 BILLION DRUG MARKET:
2 A DIVE INTO THE ECONOMICS OF CARTELS
3

4 Wednesday, March 2, 2022
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6 U.S. Senate
7 Senate Caucus on International Narcotics Control
8 Washington, D.C.
9

10 The committee met, pursuant to notice, at 2:02 p.m., in
11 Room 215, Dirksen Senate Office Building, Hon. Sheldon
12 Whitehouse, chairman of the committee, presiding.

13 Present: Senators Whitehouse [presiding], Hassan,
14 Grassley, and Cornyn.
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1 OPENING STATEMENT OF SENATOR WHITEHOUSE

2 The Chairman. If I could ask the hearing to come to
3 order, please. Thank you to our witnesses for being here.
4 We have two who are here in 3 dimensions and one who will be
5 joining -- or three of you in 3 dimensions and one who will
6 be joining us electronically. And I am very grateful to
7 everyone and particularly to Chairman Grassley for his
8 support of this. And we are here today because drug cartels
9 have become hulking multinational conglomerates which stand
10 on a massive international dark economy.

11 According to the Rand Corporation, the illicit drug
12 trade in the United States is worth \$150 billion.
13 Worldwide, it has reached as much as \$652 billion, according
14 to Global Financial Integrity. So if this were a national
15 GDP, it would be 22nd in the world ahead of Sweden, Poland,
16 and Belgium. These conglomerates operations must be
17 concealed, and virtually all of their money must be
18 laundered and hidden. For every dollar of drugs sold, a
19 dollar of revenue must be hidden.

20 Yet only a fraction of the \$23 billion spent by the
21 Federal Government attacking the supply of illicit drugs
22 addresses money laundering and the dark economy of the drug
23 trade. Today, we will discuss how to clean this up. First,
24 we need better information on the magnitude and scope of
25 cartels' financial flows. The Federal Government has no

1 central repository for data on how much drug money it
2 seizes. What data agencies do gather isn't collected
3 uniformly nor is it deconflicted, meaning two agencies could
4 count the same seizure twice.

5 Senator Hassan and I introduced the NARCO Act as an
6 amendment to the National Defense Authorization Act to
7 address these problems. Second, we need to dismantle the
8 financial networks of the cartels. The ONDCP must make this
9 an explicit priority in the National Drug Control Strategy,
10 with clear goals and metrics for success, and harness the
11 expertise of the dozens of agencies involved in that
12 strategy.

13 Third, we need to stay ahead of cartels evolving
14 tactics. Bulk cash smuggling remains a common method, but
15 trade based money laundering, trading goods with drug money
16 is another cartel favorite, and they are beginning to use
17 third party, money brokers, as well as experimenting with
18 new technologies and currencies like bitcoin. Fourth, we
19 need to be more strategic. Co-Chair Grassley and I included
20 the Corporate Transparency Act in the 2021 NDAA to prevent
21 cartels from hiding the true owners of shell corporations
22 used to launder funds.

23 I have asked FinCEN to implement this reform swiftly
24 and to expand and make permanent the geographic targeting
25 orders used to block cartels access to our real estate

1 markets. We must close loopholes that allow drug
2 traffickers to use illegal money service businesses to move
3 their illicit proceeds, as our Combating Money Laundering,
4 Terrorist Finance and Counterfeiting Act of 2022 would do.
5 Finally, we need to leverage international partnerships.

6 The Department of Homeland Security's Trade
7 Transparency Units called TTUs have proven highly effective,
8 helping Federal authorities partner with other rule of law
9 nations to detect trade based money laundering schemes. But
10 this program lacks a dedicated funding source, and we ought
11 to change that. The U.S.-Mexico Bicentennial Framework for
12 Security, Public Health and Safe Communities seeks to
13 disrupt transnational criminal organizations' financial
14 networks, and I look forward to seeing tangible results.

15 China is both a hub for money laundering and the
16 originator of most precursor chemicals used by Mexican
17 cartels. We need to encourage China to better control
18 precursor chemicals used to manufacture synthetic drugs like
19 methamphetamine and fentanyl, and to participate in working
20 groups to combat money laundering globally, such as the
21 Egmont Group. China's participation in this group could
22 advance improved U.S., China cooperation on narcotics
23 related money laundering cases.

24 Finally, we must remember that drug cartels are only
25 one part of a dark economy that supports all manner of evil

1 in the world. In Ukraine, right now, a dark money
2 kleptocratic has attacked a peaceful neighbor in part to
3 distract from his own corruption and venality. The National
4 Security imperative of rooting out this dark international
5 economy should spur us to better and more energetic efforts.
6 For starters, we could expand the Justice Department's
7 kleptocracy initiative within the money laundering and asset
8 forfeiture section into a multi-agency operations center.

9 And I have asked the Attorney General to brief us on
10 how that is going in light of the recent announcement by the
11 Biden Administration of the transatlantic task force they
12 are putting together to attack Russian oligarch assets and
13 how that will roll these different Federal agencies and
14 different offices together. I will close with a reminder of
15 the drug cartels' deadly toll. Our most recent years data
16 shows over 104,000 drug overdose deaths in the United
17 States, 400 in Rhode Island alone.

18 I look forward to hearing suggestions from our
19 witnesses on how best to strengthen our drug policy
20 framework to better address the drug production,
21 trafficking, and finance schemes that the cartels employ.
22 And I am delighted to recognize my co-chair, Senator
23 Grassley.

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1 STATEMENT OF SENATOR GRASSLEY

2 Senator Grassley. Thank you, Chairman Whitehouse.

3 This is a very important meeting in regard to the economics
4 of cartels. And it is too bad that almost every segment of
5 our economy or even political issues here in the Congress,
6 the word cartel is used all the time, and I think it just
7 tells you the power that they have. The illicit drug market
8 is massive, over \$150 billion annually on illicit drugs.
9 You can compare that to Forbes' list of the world's most
10 valuable brands.

11 The illicit drug market is competitive in value to
12 Microsoft and Amazon, and it exceeds the revenues of well-
13 established brands like Facebook, Disney, McDonald's and
14 even Google. These cartels mean business, and they do it in
15 the literal sense of doing business, and yet criminal
16 activity. These aren't low level operations. Cartels are
17 organized, adaptive, and shrewd. They are in the business
18 of making money, and will do so at the expense of others,
19 particularly Americans who have substance use disorders.

20 How do cartels managed to rake in cash and still evade
21 the law? They do it by mimicking legal businesses. Cartels
22 know their consumers' needs, create innovative ways to
23 increase profit margins, and strategically diversify their
24 goods and services. First, cartels know their primary
25 consumer, Americans, particularly those with substance use

1 disorder. They capitalize on our demand for drugs.

2 And it is getting even worse with the spread of illicit
3 counterfeit pills. Fake pills are marketed as prescription
4 drugs, but often contain fentanyl or methamphetamine. They
5 are targeting naive teens as a new consumer base to get more
6 people addicted, and then they are around for a long time as
7 loyal consumers and customers. Second, cartels are dead set
8 on increasing their profit margins. What used to be plant
9 based business has now shifted to synthetic drugs. And they
10 do that because of lower risk, yet higher rewards.

11 Synthetics can be created almost anywhere, and tiny
12 amounts are more potent yet more profitable to the drug
13 dealers. We have seen this strategy play out already in
14 regard to methamphetamine. During the 90s and early 2000s,
15 regulations limited domestic production of meth. This
16 presented an opportunity for Mexican cartels, which they
17 quickly exploited. Meth is addictive and can be produced
18 cheaply. We are seeing this again with fentanyl. Because
19 of the cartels business knowledge, they are lacing deadly
20 drugs with fentanyl.

21 And then, of course, there is widespread, leading to
22 all the deaths of Americans, most prominently ages 18 to 45,
23 is the leading cause of death there, and don't forget, that
24 is the most profitable or productive age for people to
25 produce and to get ahead and be ready for retirement.

1 Cartels are also increasing their profits by holding on to
2 their dirty money, by hiding funds, and laundering their
3 proceeds.

4 In fact, according to the Office of National Drug
5 Control Policy, over 98 percent of the proceeds derived from
6 drug trafficking remain in the hands of traffickers.
7 Lastly, cartels keep diversified portfolios. Nowadays, they
8 don't limit their business to only making and selling drugs.
9 They simultaneously, like the Zetas cartel in Mexico,
10 diversifying beyond drugs to extortion, kidnaping, and human
11 trafficking, blossoming into what has now been called by
12 officials as poly-criminal organization. They then go on to
13 launder their dirty money, which funds the next criminal
14 enterprise.

15 By having a hand in multiple criminal acts, cartels can
16 insulate themselves from the risk of losing power, profit,
17 and prestige. For all we know about the economics of
18 cartels, we are not winning our fight against them. We are
19 seeing unprecedented overdose deaths, increase spread of
20 illicit fentanyl, and fake pills in the hands of our young
21 people. This is a public health, at the same time a
22 National Security issue and crisis.

23 To end this scourge of drugs, we must limit demand and
24 stop the supply. But we also have to go after the drug
25 traffickers' illicit finances. I believe today's panel is

1 more than capable to discuss these issues and offer your
2 insights into this problem of how to upend the cartel
3 business model. Thank you.

4 The Chairman. Thank you very much, Co-Chair Grassley.
5 Let me -- what I will do is I will introduce each witness
6 and give them a chance to make five minute remarks, and when
7 we are through, we will open it for questions from all of
8 us. Let me start with our remote witness, Ms. Celina
9 Realuyo, who is joining us today from Bogota, Colombia.

10 She is an Adjunct Professor at the George Washington
11 University Elliott School of International Affairs, where
12 she focuses on U.S. National Security, illicit networks,
13 transnational organized crime, counterterrorism, and other
14 National Security issues.

15 Former U.S. diplomat, international banker with Goldman
16 Sachs, State Department Director of Counterterrorism Finance
17 Programs, consultant and professor at the National Defense,
18 George Washington and Joint Special Operations Universities,
19 Professor Realuyo has over two decades of international
20 experience in the public, private, and academic sectors, and
21 has been a trusted strategic advisor to senior leaders in
22 U.S. Government, military, business and academia. And we
23 are delighted that she could join us today from overseas.

24 Professor Realuyo, are you with us?

25 STATEMENT OF CELINA REALUYO, ADJUNCT PROFESSOR OF PRACTICE,

1 THE GEORGE WASHINGTON UNIVERSITY ELLIOTT SCHOOL OF
2 INTERNATIONAL AFFAIRS

3 Ms. Realuyo. Yes, can you hear me, sir?

4 The Chairman. Hear you well.

5 Ms. Realuyo. Great. Thank you. Chairman Whitehouse
6 and Chairman Grassley, as well as the members of the Senate
7 Caucus on International Narcotics Control for this
8 opportunity to testify today, countering the evolving drug
9 trade and the digitalization of election networks in the
10 Americas. I really appreciate the ability to accommodate my
11 schedule.

12 I am in Bogota, Colombia, actually conducting a seminar
13 for the Colombian National War College on these very threat
14 of transnational organized crime and illicit financial
15 flows. During the pandemic, transnational criminal
16 organizations such as the Mexican cartels have quickly
17 adapted to a changing environment and leverage cyberspace to
18 empower and further enrich themselves.

19 My testimony today will examine the transforming drug
20 market, the U.S. opioid epidemic, and cyberspace as a force
21 multiplier for both drug trafficking and money laundering,
22 and actually make specific recommendations to counter the
23 illicit economy.

24 The drug trade in the Americas has been evolving from a
25 plant based narcotics like cocaine and heroin to potent

1 synthetic drugs like fentanyl and methamphetamine. As
2 already mentioned, the U.S. drug consumption has shifted
3 significantly to opioids, resulting in an unprecedented
4 epidemic in the U.S., with exactly 104,288 drug overdose
5 deaths in the past 12 months, recorded in September of 2021,
6 according to the CDC.

7 As U.S. cocaine consumption falls, cocaine traffickers
8 have expanded to new routes and new markets in Asia and in
9 Europe, where they can actually double or triple their
10 profits. They have totally gone global, engaged in
11 circumnavigating the world and stepping up their use of
12 submarines.

13 Meanwhile, the Mexican cartels are increasing
14 trafficking deadly opioids into the United States. Cartel
15 Jalisco Nueva Generacion, the Sinaloa cartel, and the Gulf
16 Cartel are among the most powerful and dangerous TCOs in
17 Mexico that affect the National Security of the United
18 States.

19 Increased competition among the cartels has resulted in
20 near record levels of violence in Mexico, with 33,308
21 homicides last year. The cartels have remained active,
22 trafficking lethal drugs like fentanyl, heroin, meth, and
23 cocaine in the United States, despite the COVID-19 lockdowns
24 and closed borders and paralyzed international trade over
25 the past two years. They have also taken advantage of the

1 fact that governments have been so focused on pandemic
2 response they have actually neglected in some cases their
3 mission to fight crime.

4 These groups are expanding their control of trafficking
5 routes and markets and are even winning the hearts and minds
6 by providing social services to marginalized communities in
7 Mexico. Technology and the internet have supercharged
8 illicit drug markets and related illicit financial flows.
9 The cartels have been using online markets and
10 cryptocurrencies to promote, sell, and profit from the drug
11 trade.

12 The darknet actually provides anonymity, efficiency,
13 ease of payment through cryptocurrencies like bitcoin, and
14 convenient, direct drug delivery by mail to consumers. In a
15 very disturbing development, TCOs are targeting our youth,
16 using social media platforms like TikTok and Instagram to
17 market narcotics, glorify the narco lifestyle, and even
18 recruit our young people into their groups. What we have
19 seen with the pandemic has been an acceleration of what we
20 call the use of the cyber physical realm or domain.

21 All the activities that we have seen in the past that
22 take place in real life have now been complemented with
23 activities in the cyberspace. To counter the evolving drug
24 trade and digitalization of illicit networks, U.S. and
25 partner nations must intensify demand and supply reduction,

1 drug detection and interdiction, and adopt counter money
2 laundering and cyber measures to keep up with the rapid
3 changes in the production, marketing, financing, and
4 delivery of drugs, particularly synthetic drugs.

5 I would recommend the following measures to counter the
6 illicit economy. Number one, permanently place fentanyl
7 related substances into Schedule I of the Controlled
8 Substances Act to empower our law enforcement. Number two,
9 actively educate Americans of all age groups of the dangers
10 from fentanyl laced counterfeit drugs and opioids.

11 Number three, monitor and control online drug markets
12 and the social media platforms used to promote drug use and
13 sales, especially to our minors, and consider duty of care
14 requirements reducing the risk of harm to users.

15 Number four, revitalize U.S., Mexican cooperation to
16 curb drug production, trafficking, and the laundering of
17 TCO's proceeds. Number five, detect, disrupt, and prosecute
18 Chinese fentanyl and precursor chemical traffickers and
19 their money laundering networks.

20 Number six, leverage digital and financial intelligence
21 to detect and disrupt the use of cryptocurrencies and
22 prevent the exploitation of newly emerging financial
23 services such as e-wallets.

24 And number seven, to complement our chairman's
25 comments, work with our partner countries to share best

1 practices regarding involving money laundering schemes and
2 the transformation of the drug market into what we call this
3 cyber-physical realm. Thank you so much for your attention
4 and more importantly, I stand ready for all of your
5 questions. Thank you.

6 [The prepared statement of Ms. Realuyo follows:]

1 The Chairman. Thank you so much for joining us. I am
2 grateful to you and appreciate the trouble you have taken to
3 come in from overseas. Our next witness is Michael
4 McDaniel, who began his law enforcement career in 1983 as a
5 police officer, Senator Cornyn will be glad to hear, with
6 the City of Houston Police Department.

7 He then became a Special Agent with DEA, working
8 domestic and international cases, and served as staff
9 coordinator in the Southwest border section of the Special
10 Operations Division. As a group supervisor of DEA San
11 Antonio High Intensity Drug Trafficking Area, we call this
12 HIDTAs, Resident Agent in charge in Southern New Mexico, an
13 Assistant Special Agent in charge in the Houston DEA Office,
14 again, Cornyn country.

15 In September of 2011, Mr. McDaniel retired from DEA to
16 accept a position as the Houston HIDTA Director where he has
17 served since. Mr. McDaniel, welcome and thank you for your
18 service. Please proceed.

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1 STATEMENT OF MICHAEL MCDANIEL, PRESIDENT, NATIONAL HIDTA
2 DIRECTOR'S ASSOCIATION AND DIRECTOR, HOUSTON HIDTA

3 Mr. McDaniel. Thank you, sir. Thank you to the
4 committee for this opportunity. This committee is really
5 important to the -- and the work that you guys do is really
6 important to the 33 HIDTAs across the country.

7 I know that this committee is very familiar with the
8 HIDTA program, and I would add that it has been amazing to
9 see what happens, and this will be part of this committee's
10 strategy, it is amazing to see what happens when you put
11 state, local, Federal, and tribal agencies, law enforcement
12 agencies in one room, give them an equal voice, and let them
13 all figure out how they are going to attack the regional
14 drug problem.

15 And it has just been amazing to watch, and I think that
16 will be part of this committee strategy today. The
17 techniques -- I was asked to ask about the techniques that
18 we are using, and they are the traditional investigative
19 techniques that we are using. We are using -- they will go
20 into three categories, into intelligence, into investigative
21 methods, and then lastly, technology. And for the
22 investigative piece, HIDTA has mandated to put intel
23 analytical support centers in all the HIDTAs across the
24 Nation and some HIDTAs have more than one, especially those
25 multi-state HIDTAs.

1 We -- those centers are very, very helpful to drug law
2 enforcement, not just to the HIDTA initiatives, but also to
3 all the law enforcement agencies in that region. We are
4 looking in, and the last witness actually talked about it,
5 but ONDCP and the HDTAs have been looking of late at some
6 investigative contracting services that are helping us look
7 at some other, some computer algorithm companies that will
8 help us actually make a bigger attack on the money
9 laundering organizations and of the distribution cartel
10 aspect of it.

11 And so we are going to be looking at that as well
12 because I think, as you guys can imagine, the technology
13 sector, we, although HIDTA will purchase a lot of equipment
14 like advanced covert surveillance equipment, GPS trackers,
15 different handheld X-ray scanners to see like anomalies and
16 things in the vehicles on the highway.

17 But more importantly, the Title III wire intercepts
18 have been, in the past have been our biggest tool. And now
19 the challenges we face, as the last witness mentioned about
20 the apps like Signal and Trent and some of the app things
21 that are actually putting us in the dark.

22 And I know this committee has actually heard testimony
23 about the going dark issue, but I would ask this committee
24 to again renew that because it is amazing how little we are
25 getting on our Title III wire intercepts. It is a

1 challenge. And maybe this committee, actually, if you guys
2 have any input, look at the lawful access. We talked to
3 some of the cell phone providers and some of the providers.
4 They say, we really actually want to help you guys, but we
5 have to be mandated to do so because I can't lose that
6 competitive edge to another person, you know, to another
7 cellular telephone company or whatever the likes may be.

8 And I want you to visualize just last week in
9 Montgomery County, and this happens every week, you can
10 imagine, we talk about the counterfeit pills and our HIDTA
11 task force guys show up at an overdose death of a college
12 student, and the family is sitting there, and they are
13 handing the officers the cell phone and saying, please
14 figure out who is actually distributing lethal amounts of
15 these counterfeit pills. We actually can't even open that
16 cell phone because the parents don't know the password.

17 So anything the cellular companies can do would be
18 greatly appreciated by this committee. We also, as far as
19 the money laundering, I will kind of counter some of the
20 things and that all the witnesses are going to be talking
21 about, but the Chinese money laundering organizations that
22 are now doing pickups here in the U.S., we are actually
23 doing surveillance and watching Chinese nationals meeting
24 with cartel cell heads in different cities, and we are
25 seeing situations where they are picking up large amounts of

1 bulk currency.

2 And so that is going to -- that is, right now that is
3 off our radar. We actually don't get to see that. And the
4 best chance we have of interdicting that is seizing it as
5 the guys are going down the highway. Well, in fact, last
6 week -- last week in Alabama, they seized \$1.4 million from
7 four Asian nationals, driving an 18 wheeler in Mississippi.

8 And it looked like it was going on the Southwest
9 border. One of the last things I will talk about is the,
10 you know, whatever this committee can do. We really
11 appreciate your efforts, and you have the resources of all
12 the 33 HIDTAs across the country at your disposal, and we
13 are looking forward to working with you and your staff on
14 coming up with good solutions of how we can tackle this
15 problem. Thank you.

16 [The prepared statement of Mr. McDaniel follows:]

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1 The Chairman. Thanks so much, Mr. McDaniel. Our next
2 witness is Lakshmi Kumar, the Policy Director at Global
3 Financial Integrity, whose work I cited in my opening
4 remarks. She has vast experience in financial policy,
5 securities, investigation, regulatory governance, anti-
6 corruption, and anti-money laundering terrorist financing.

7 Prior to joining GFI, Ms. Kumar worked with governments
8 and regulatory agencies across South Asia, East Africa, and
9 Eurasia to investigate money laundering and terrorist
10 financing risks to financial systems, including drafting
11 legislation to identify beneficial ownership for the
12 financial sector in India, evaluating the robustness of the
13 securities market in the Eurasian region, and conducting
14 investigations on sovereign wealth funds, procurement
15 procedures, and other offshore investment entities to
16 evaluate fraud and terror financing risks.

17 Welcome, Ms. Kumar. Please proceed.

1 STATEMENT OF LAKSHMI KUMAR, POLICY DIRECTOR, GLOBAL
2 FINANCIAL INTEGRITY

3 Ms. Kumar. Thank you, Chairman Whitehouse, Co-Chair
4 Grassley, and other members of the caucus. It is a
5 privilege to testify before you today on the critical issue
6 before us. My name is Lakshmi Kumar. I am the policy
7 director and Global Financial Integrity, a think tank
8 focused on providing evidence based research and solutions
9 to counter the ways in which criminal actors abuse the U.S.
10 economy to hide their illicit profits.

11 Through this testimony, I hope to also demonstrate that
12 allowing the U.S. to act as a safe haven for the illicit
13 profits of cartels has direct costs to both U.S. National
14 Security and the everyday well-being of U.S. citizens. The
15 U.S. today is the world's largest consumer of illegal drugs.
16 A report from the Yale Center for the Study of Globalization
17 found that the U.S. makes up just 5 percent of the global
18 population, yet accounts for over 25 percent of global
19 demand for illicit drugs.

20 Since 1971, the U.S. has spent over a trillion dollars
21 enforcing its drug policy. Yet, the number of illicit drug
22 users rose to 13 percent of the U.S. population in 2019,
23 which is close to its peak from over 40 years ago. While
24 this testimony and recommendations contained here focus on
25 how to bolster the use of financial tools in the U.S.

1 context, a truly cohesive policy framework means to span
2 jurisdictions that serve as production, transit, and
3 destination countries.

4 Norwegian better exemplifies this than Central America.
5 By 2015, the U.S. Government estimated that 90 percent of
6 cocaine trafficked into the United States moved along with
7 the Central American and Mexico corridor, geographically
8 meaning that it necessitates moving through Guatemala.
9 Transshipment points extend well beyond the Western
10 Hemisphere. For instance, cartels have used the West
11 African country of Guinea-Bissau as a transit hub for
12 cocaine. The country through poverty and corruption is now
13 in narco state. In 2008, the country did not have a prison,
14 had one patrol boat to patrol 217 miles of coastline, yet
15 nearly a decade later, very little has improved.

16 In 2019, police in Guinea-Bissau seized 1.8 metric tons
17 of cocaine, the largest seizure in the country's history.
18 Laundering the proceeds is the other side of this coin. As
19 a cash intensive business, an ongoing challenge is to always
20 find new and innovative ways to integrate these proceeds
21 into the financial system. GFI's 2019 report submitted to
22 Congress identified trade based money laundering and bulk
23 cash smuggling as the most common method. Yet, the reality
24 is cartels innovate and look at the long term horizons of
25 their business.

1 GFI has found systematic examples of investment into
2 the private equity markets, real estate, renewable energy,
3 jewelry, art, cryptocurrency. All of this has costs. A
4 rather telling example was the recent collapse of the Miami
5 condo building last year killing 98 people. Investigative
6 reports found that the building was built in the heydays of
7 the cocaine cartel, and developers cut costs to benefit from
8 the cocaine boom and sell apartments for drug traffickers
9 looking for an easy way to launder money.

10 Stronger financial transparency tools and beneficial
11 ownership is not just needed in the real estate sector, but
12 across a variety of asset classes and the financial and
13 trade based mechanisms that are exploited by cartel actors.
14 Historically, policy efforts have prioritized the
15 dismantling of structures and networks of criminal actors in
16 the drug trade. Financial and trade tools will always be
17 critical to this approach.

18 However, I would be remiss in failing to point out the
19 multidimensional nature of this problem, which has deep
20 connections to intrinsic corruption, weak democracies,
21 poverty, and the need for sustainable livelihoods. The
22 effectiveness and value of financial tools therefore go hand
23 in hand with finding ways these multidimensional issues
24 intersect with each other. The question, therefore, before
25 us is, what can Congress do? And I have three key

1 recommendations on this.

2 First venture to prioritize the creation of a permanent
3 a nationwide rule that applies to the commercial and
4 residential real estate sector and follows a cascading
5 reporting structure. Second, FinCEN should be given the
6 additional funding that is needed to meet the ambitious
7 goals both before this caucus and as suggested by the Biden
8 Administration.

9 Finally, on the TBML front, while TTUs have been
10 successful, more can be done to share information with
11 source transit and destination countries, including
12 beneficial ownership information that is not currently shed.

13 Setting up a designated task force for TBML within
14 FinCEN and using advocacy efforts to ensure that there is a
15 TBML standards set at the financial action task force level.
16 Thank you again for your time today and I look forward to
17 any questions.

18 [The prepared statement of Ms. Kumar follows:]
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1 The Chairman. Thank you, Ms. Kumar. That was very
2 helpful. I appreciate it. Ms. Hanichak is the Government
3 Affairs Director at the Fact Coalition, where she leads the
4 group's Federal policy work. Before joining Fact, Ms.
5 Hanichak worked with U.S. based nonprofits on advancing
6 transparent governance, accountability, and rule of law in
7 the Middle East.

8 From 2017 to 2020, she served as Government relations
9 Director at Americans for a Free Syria, where she partnered
10 with lawmakers, Administration officials, and other
11 nonprofit organizations on legislation targeting the
12 networks that fueled mass human rights violations in Syria
13 and the region.

14 She likewise campaigned to augment counterterror
15 finance measures and prevented diversion and abuse of U.S.
16 humanitarian aid. We are delighted she is with us. Ms.
17 Hanichak.

STATEMENT OF ERICA HANICHAK, GOVERNMENT AFFAIRS DIRECTOR,
FINANCIAL ACCOUNTABILITY AND CORPORATION TRANSPARENCY (FACT)
COALITION

Ms. Hanichak. Thank you so much. Chairman Whitehouse, Co-Chairman Grassley, all, thank you for holding this important hearing. It is critical that Congress deny drug traffickers the financial tools that they use to bury their financial gains.

I am here on behalf of the Fact Coalition and its more than 100 civil society, business, and labor members to discuss bipartisan reforms to counter the U.S. financial secrecy that fuels the public health, harms economic distortion, and corruption perpetuated by the drug trade. In my testimony, I will highlight three ways in which Congress can tackle U.S. financial secrecy.

Congress should one, encourage the Financial Crimes Enforcement Network to fully implement existing anti-money laundering laws. Two, pass legislation requiring additional due diligence by opaque financial sectors. And three, fund FinCEN at levels to ensure the agency has the staff and resources necessary to fulfill its ambitious anti-money laundering and anti-corruption mission.

Secretary of U.S. Treasury, Janet Yellen, stated the problem clearly in a speech in December. Right now, the best place to hide and launder ill-gotten gains is actually

1 the United States. This is shocking. Americans usually
2 think this illicit activity only happens in places like the
3 Cayman Islands. As the world's largest economy and one of
4 the most opaque, the United States is a leading destination
5 for drug traffickers and the corrupt officials they work
6 with to park their illicit funds.

7 While my written testimony discusses several
8 vulnerabilities, I will use this time to address just two,
9 anonymous U.S. shell entities and the role of professional
10 enabling industries such as the U.S. private investment
11 sector. U.S. anonymous shell entities pose an immense
12 money-laundering risk. More personal information is
13 required to obtain a library card in all 50 States than it
14 takes to establish a legal entity that can be used to
15 facilitate drug trafficking, money laundering, and
16 corruption.

17 This isn't an abstract risk. Just in the past two
18 weeks, New York based money launderer Da Ying Sze pled
19 guilty to laundering \$653 million in drug money through
20 shell companies with bank accounts in New York, New Jersey,
21 and Pennsylvania, then remitting the illicit money back to
22 China in Hong Kong. We further know that U.S. anonymous
23 entities play a role in fueling drug networks efforts to
24 strategically corrupt societies and governments.

25 A report by the UN Office on Drugs and Crime found that

1 anonymous entities were used to hide the proceeds of
2 corruption, the majority of grand corruption cases with U.S.
3 entities being the most common. Congress has already taken
4 a critical step to address this problem. Last year,
5 Congress passed the bipartisan Corporate Transparency Act
6 referenced by the chairman, which would effectively end the
7 abuse of anonymous shell entities by requiring certain
8 entities to name their true owner to FinCEN.

9 The Treasury Department is diligently working to
10 implement this law, but to date none of its three
11 anticipated rules are finalized. These rules must be
12 finalized by the end of 2022. Next, it is imperative that
13 the U.S. bring enablers of crime and corruption under its
14 anti-money laundering laws. While anonymous entities often
15 act as the getaway vehicle for financial crimes, certain
16 industry professionals can serve as the getaway driver.

17 Drug trafficking organizations rely on these
18 professionals to understand and gain access to the U.S.
19 financial system. The Financial Action Task Force found
20 that the United States was completely deficient and while
21 behind international norms and regulating these enabling
22 professions in its most recent comprehensive evaluation.
23 The Administration already has the authority and stated will
24 to tackle one gaping loophole in our system, the opaque \$11
25 trillion private investment industry.

1 Unlike banks and broker dealers, which perform similar
2 functions in the securities market, none of the private
3 equity hedge funds, venture capital firms, or their
4 investment advisers currently have any obligations under
5 U.S. anti-money laundering laws. The opacity of this sector
6 led the FBI to conclude with high confidence that the
7 private investment market is increasingly a vehicle for
8 money laundering and sanctions evasion. And one such case
9 Mexican drug cartels in California used hedge funds to
10 launder \$1 million a week.

11 In a similar case, a boutique investment firm in
12 Florida allegedly laundered more than \$100 million through
13 high end U.S. real estate as part of the Black Market Peso
14 Exchange. Access to private investment vehicles or other
15 U.S. financial vehicles do not occur in a vacuum. Other
16 financial -- other financial professionals are critical.
17 The United States is in the last 10 percent of countries
18 that have not taken steps of requiring business
19 professionals like lawyers, accountants, and other trust and
20 company service agents to conduct anti-money laundering due
21 diligence.

22 The risks to these sectors demand further legislative
23 action by Congress. So what can Congress do? Congress
24 should pursue financial reforms to help investigators follow
25 the money fueling the transnational drug trade. Such

1 reforms will have fallen effects, including improving the
2 enforcement of U.S. sanctions. As Congress considers how to
3 respond to Russia's unlawful invasion of Ukraine, I am sure
4 this is top of mind.

5 Here are three recommendations, in addition to those
6 outlined by Ms. Kumar, that Congress must pursue to keep
7 Americans safe and uphold the integrity of our systems.
8 First, Congress must affiliates oversight role to ensure
9 existing anti-money laundering laws are fully implemented.
10 Co-Chairs, I thank you for your leadership in supporting the
11 Corporate Transparency Act. The first rule proposed by
12 FinCEN was strong, and with your -- yours and other inputs,
13 will ensure meaningful disclosures of entities true owner.

14 Still, members of this caucus should continue engaging
15 FinCEN regarding how law enforcement can gain access to this
16 database. Congress should urge FinCEN to craft protocols
17 that guarantee timely and uncomplicated database access for
18 state, local, and Federal law enforcement.

19 Further access protocols must be written to facilitate
20 international cooperation, including in narcotics cases. In
21 a similar fashion, Congress should encourage FinCEN to
22 follow through on the Administration's stated commitment to
23 meaningfully bring the U.S. private investment sector and
24 other under U.S. money laundering regulations as a way to
25 crack down on illicit narcotics trafficking. Second,

1 Congress will need to take action to bring transparency to
2 enabler professions.

3 Congress should advance legislation such as the
4 Enablers Act for Successor legislation to require
5 professionals such as lawyers, accountants, or corporate and
6 trust service agents to fulfill basic AML laundering checks.
7 And then finally, there is one thing that only Congress can
8 and must do, fund the Financial Crimes Enforcement Network.

9 It is imperative that Congress supply the agency with
10 the resources and staffing necessary to do its job.
11 Congress must finally approve a budget that means the Biden
12 Administration's request to increase the agency's funding by
13 50 percent. And I will stop there. Thank you very much for
14 your time.

15 [The prepared statement of Ms. Hanichak follows:]
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1 The Chairman. Thank you very much. This has been
2 really helpful to me. Let me start with a question for Ms.
3 Realuyo about what we should be pursuing diplomatically and
4 through trade pressure by way of anti-corruption reforms in
5 other countries that are either producing or transit
6 countries.

7 There is a link between corruption at home and
8 participation in these illegal narcotics finance schemes.
9 And what should the standard be that we demand of our trade
10 partners that are engaged in this?

11 Ms. Realuyo. That is such a great question, and it is
12 actually quite timely because the White House has actually
13 issued a strategy to counter corruption throughout the world
14 as part of one of the pillars of U.S. foreign policy.

15 We have actually seen, where we take a look at
16 transnational criminal organizations, they choose and
17 actually aid and abet corrupt regimes where they can freely
18 and more importantly, actually dominate, if not actually
19 corrupt or co-opt the governments that help them.

20 This is particularly true, as we have seen, sadly, in
21 the case of Guatemala and in Honduras, where the most recent
22 president is now arrested for having ties with narcotics
23 trafficking based on a U.S. case. What needs to be done is
24 we have to hold our partners accountable.

25 And we have seen this in terms of the way the U.S.

1 assigns and more importantly, appropriates the U.S. foreign
2 assistance to actually try to establish what we call metrics
3 or measures of effectiveness to see how our assistance
4 dollars have been applied, for example, taking a look at
5 judicial institutions, trying to help prosecutors be able to
6 better bring those traffickers and money launderers to
7 justice.

8 So we have seen, unfortunately, in the case of Mexico,
9 which is the one I am most familiar with, and I am very
10 disturbed by, is the few, a handful of cases that have been
11 opened and prosecuted by their FinCEN, which is their
12 financial intelligence unit. The laws exist, but you and I
13 know, until you actually have the application of the law, it
14 doesn't have the impact and desired effect that it was
15 intended to have.

16 So these are the ways that we try in bilateral
17 relations to discuss common interests, common missions. The
18 entire region of the Western Hemisphere obviously looks at
19 the scourge of drug trafficking as not just having physical
20 effects on the population, since it is also so related not
21 just with corruption, but with high levels of violence, but
22 it also affects the economy. What we have is a parallel
23 illicit economy that you all alluded to in your opening
24 remarks that actually takes away and detracts from the licit
25 economy.

1 And what is even more disturbing, that you have a
2 younger population that is not as attuned to countering
3 corruption because they have been living with it and have
4 seen, sadly, all those who engage in criminal activities and
5 engage in corruption benefit from -- financially --

6 The Chairman. They have gotten acclimated you could
7 say. Let me interrupt you. It is so I have a chance to ask
8 Mr. McDaniel of what we can do in Congress to provide HIDTAs
9 the additional tools and authorities they need to be more
10 aggressive on the financial side as opposed to the drug
11 distribution side.

12 Mr. McDaniel. Thank you, sir. The -- what you guys
13 could do is as far as we -- we need additional resource,
14 especially for those investigational databases that we are
15 talking about in. And the biggest thing is just arm us with
16 a continued collaboration with our State and local partners
17 to address the money laundering.

18 We have 17 out of our 33 HIDTAs actually have dedicated
19 money laundering squads. And I think that is something we
20 could expand out on. And some of those HIDTAs have multiple
21 units, that is all they do is just money laundering. And
22 matter of fact, in 2020, the HIDTA program took away from
23 these cartels and drug organizations \$827 million and \$176
24 million in other assets. And I think you could see those
25 numbers increase a lot with the adequate resources.

1 The Chairman. Thank you. Ms. Kumar, please go ahead.
2 But also, I was going to ask you next, and my time is short
3 so please make your answer short so I can turn to Chairman
4 Grassley, but I want you to also focus on what role you
5 think we should demand in the national drug control strategy
6 for anti-money laundering activities.

7 Ms. Kumar. Absolutely. I will go quickly in the
8 interest of time. I was going to suggest that on the anti-
9 corruption side, the U.S. could strengthen anti-corruption
10 provisions within free trade agreements. Now they are broad
11 and loose.

12 But for example, in the U.S. free trade agreement with
13 Peru, they were very specific requirements to target the
14 illicit trade of timber, and there was supply chain
15 accountability, including the provision of beneficial
16 ownership information that was demanded, and I think that
17 would be a very specific measure.

18 Second, to follow up on what was just said is that
19 within FinCEN, it would really be helpful to set up a
20 national AML academy that can provide specific training for
21 both State and local law enforcement and sort of allowing
22 FinCEN to directly serve in the role in the national drug
23 control strategy would enhance their ability to tie what we
24 have, the illicit finance angle to the ongoing problems that
25 we have in terms of tackling and enforcing drug issues.

1 The Chairman. Presumably, Mr. McDaniel, your HIDTA
2 colleagues would enjoy that training and appreciate it. Let
3 me turn to Chairman Grassley and then Senator Cornyn.

4 Senator Grassley. I am going to start out with
5 Professor Realuyo to ask you about, what is the extent of
6 Chinese criminal organizations relationship to the Mexican
7 cartels? And why is it important for policymakers to
8 understand China's role? And I don't know whether that is
9 Government's role or Chinese criminal elements' role as part
10 of the economics of cartels.

11 Ms. Realuyo. Fantastic questions. So we know that not
12 just precursor chemicals that are critical for all types of
13 drugs, but particularly fentanyl that is poisoning our
14 population originates in China. And what we have seen
15 interestingly, with all the U.S. measures to try to curb the
16 physical sending of fentanyl directly into the U.S. through
17 the postal system, the Chinese have adapted to it. And that
18 is why most of the fentanyl is now being trafficked through
19 Mexico.

20 Mexico and China have very tight and quite expansive
21 trade relations that are now being piggybacked by the
22 movement of these illicit chemicals as precursors as well as
23 fentanyl. And that is where we see the symbiotic
24 relationship between Mexican cartels and now Chinese
25 criminal organizations. But as you well know, nothing

1 happened in China without the Communist Party actually
2 knowing about it.

3 And this is an area that we should be very disturbing
4 to all of us. What we have also seen is that the Chinese
5 are expanding, and this goes beyond drug trafficking. As
6 you know, the Chinese are expanding their tentacles into all
7 of the economies in South America, and they also need to
8 circulate and get paid back for the sale and movement of
9 these precursor chemicals and fentanyl. This is why we have
10 seen Chinese banks and Chinese operators now extending and
11 expanding their money laundering networks in order to
12 circumvent a lot of the measures that have been put in
13 place.

14 So this is an area that we need to focus much more in
15 terms of gathering intelligence, and more importantly, going
16 after through the prosecutions, the actual brokers, as well
17 as the traffickers who are involved in that. And in the
18 U.S., we have been good at trying to identify these cases
19 and then bring them to justice. But more has to be done.

20 Senator Grassley. For Kumar and Hanichak, it is my
21 understanding that bad actors are increasingly facilitating
22 their operations through cryptocurrency. What advantages or
23 disadvantages does cryptocurrency offer drug cartels as
24 compared to something more ovation like cash smuggling,
25 etcetera?

1 Ms. Kumar. Thank you, Senator. That is an excellent
2 question. The first advantage that cryptocurrency would
3 offer is that it allows you to be outside the purview of the
4 financial system, which means there are no AML controls, no
5 one is asking you uncomfortable questions. Now the downside
6 of it is, if you are a drug trafficker, your ultimate aim is
7 to bring the money back into fiat currency, which is to turn
8 it back into dollars that are usable, where you can buy real
9 estate or you can buy -- you can invest it in a whole host
10 of things.

11 Now, the problem is as valuable and as much attention
12 as cryptocurrency is getting, the truth is that within the
13 financial system and within the trade system, there are just
14 so many more easier loopholes to exploit that the challenges
15 with cryptocurrency, including the volatility, can act as a
16 deterrent to long term investment by drug cartels in that
17 sector.

18 And if we want to prioritize resources, I would say the
19 traditional methods that include abuse of the financial and
20 trade system, bulk cash smuggling, TBML, real estate,
21 private equity, that is where our focus should be.

22 Ms. Hanichak. I would just like to concur with Ms.
23 Kumar and just reiterate that we have the tools that we need
24 and the right approach already. We can't be distracted by
25 this new methodology for money laundering. We already know

1 what things we have to do in place as Ms. Kumar mentioned in
2 terms of approaching real estate, tackling beneficial
3 ownership opacity, and moving through the private investment
4 sector.

5 One thing that Congress should absolutely avoid doing
6 though is to make sure that they avoid implementing
7 specialized rules that might confuse design choices,
8 specifically inherent to cryptocurrency that are easily used
9 and leveraged to evade detection and are meant for anonymity
10 with things that seem like innovation.

11 And so in approaching an anti-money laundering strategy
12 to tackle this new methodology, we really should focus and
13 go back to basics.

14 Senator Grassley. I think in 22 seconds, I can get
15 this question to Mr. McDaniel. What is law enforcement
16 seeing as the most impactful and threatening changes by
17 cartels and how they are trafficking drugs and evading the
18 law?

19 Mr. McDaniel. The biggest things we are seeing and the
20 most alarming is the partnership between Chinese
21 organizations getting the precursor chemicals down primarily
22 to Sinaloa and the CJ and G cartels. And there, that you
23 actually have Chinese nationals in the labs helping them
24 make methamphetamine and fentanyl, and it is very alarming,
25 the increases in fentanyl we are seizing along the --

1 everywhere across the United States.

2 Senator Grassley. Okay, thank you. Thank you.

3 The Chairman. Thank you, Chairman. Let me turn to
4 Senator Cornyn and then Senator Hassan. And I -- we have a
5 vote both on the floor and in finance, and so I may ask
6 Senator Hassan to close out the hearing when she is done
7 with her questioning. So let me just take this opportunity
8 to thank the witnesses. You have been extremely helpful,
9 and we will follow up. Senator Cornyn and then Senator
10 Hassan.

11 Senator Cornyn. Let me address my first question to
12 Professor Realuyo, if I am pronouncing that correctly. With
13 a name like mine, you are sensitive about people who
14 mispronounce your name, but I want to ask you about the
15 precursor issue.

16 A year or more ago, Bloomberg did an investigative
17 report about the role of a chemical manufacturer
18 headquartered in the United States name Avantor that was
19 selling through licenses in Mexico portable containers
20 convenient for drug manufacturing of acetic anhydride.
21 Acetic anhydride, I understand, is actually banned in some
22 countries officially, for example in Afghanistan, which is a
23 premier heroin exporter in Asia.

24 But to what extent do we have a problem with American
25 companies that are connected with chemical manufacturing

1 that either know or should know that their product is being
2 used as a precursor for the manufacture of illegal drugs?

3 Ms. Realuyo. You have identified one of the great
4 loopholes when countries are trying to control precursor
5 chemicals. As you know, there are different combinations of
6 precursor chemicals, and some of us don't fall under the
7 jurisdiction of laws that are implemented, for example, in
8 Mexico or here in the United States or in Peru. The other
9 thing is this also has to do with dual use issues.

10 So a lot of the chemicals are used for legitimate
11 purposes. But obviously, the chemists who are now really
12 expanding as we see the explosion of synthetic drugs, are
13 finding ways to go around and circumvent this. But we have
14 to hold American companies and their subsidiaries actually
15 accountable to the fact that these are inputs into these
16 lethal drugs that are arriving in the United States and
17 killing our population.

18 So this is what we need to work with the other
19 countries to make sure that they have the same list of
20 banned precursor chemicals, and you just mentioned that
21 example of Afghanistan is a very timely one. But many of
22 these companies, it is hard for them to keep up with the
23 legal at the local laws in the countries where they have
24 subsidiaries. And that is a huge loophole that many are
25 exploiting.

1 Senator Cornyn. Professor, I would like to have my
2 chief counsel reach out to you, and for some specific action
3 items, I do think this is a huge loophole. Obviously,
4 criminal organizations are not going to comply with our laws
5 and, but they will exploit vulnerabilities. And it is a big
6 problem, as you say. Mr. McDaniel, thanks for your service.
7 It is good to see you. Good to see you here today.

8 My question has to do with the drugs that are flowing
9 across the border. You know, it strikes me to use a maybe a
10 bad football analogy that the offensive line has penetrated
11 our defensive line and is now in our backfield, which is
12 where our HIDTAs primarily operate, once the border is
13 penetrated and the drugs have made your way into the
14 interior of the United States.

15 We have heard the number 100,000 plus Americans dying
16 of drug overdoses last year alone, with the overwhelming
17 majority of those drugs coming across the border, whether
18 they come from Mexico or Central America or somewhere else.
19 It is an extraordinarily profitable business and obviously
20 there is unfortunately demand for that. But we have had 2
21 million people show up at the border, including
22 unaccompanied children and families, during a pandemic.

23 And I know the Border Patrol has been overwhelmed in
24 their -- to try to process and deal with this flood of
25 humanity. But the fear is, and what they have reported to

1 me is that once they are processing migrants or feeding
2 formula or changing diapers, that that is when the drug
3 cartels exploit that vulnerability. Has that been your
4 experience, and could you share with us your views on that?

5 Mr. McDaniel. Yes, it is definitely a concern that we
6 need to be looking at, because while the Border Patrol is
7 tied up, we are seeing, and I personally have seen tours
8 where there is large amounts of illegal aliens carrying
9 drugs and they are going down the power lines of ranches
10 there.

11 They are actually taking over ranches of ranchers that
12 own property that don't actually go there often, it is just
13 an investment. And we are seeing real big problems. We have
14 been actually dealing with some of the large ranches down
15 there where we have immigrants also giving a coastal threat
16 and coming in by boat and dropping them off above the U.S.,
17 inland U.S. Border Patrol checkpoints.

18 Senator Cornyn. So would you agree with me that people
19 who see illegal immigration or the humanitarian crisis at
20 the border but don't recognize the huge vulnerability that
21 presents for illegal importation of narcotics and other
22 drugs, that they are only seeing part of the problem?

23 Mr. McDaniel. I would agree with that, sir. And it is
24 something we are trying to address in lots of different ways
25 through the HIDTA program.

1 Senator Cornyn. Well, I know notwithstanding your best
2 efforts, and I applaud what you and the folks in the HIDTA
3 task forces do, I think we are fighting a losing battle,
4 tragically.

5 The Chairman. Senator Hassan.

6 Senator Hassan. Well, thank you, Chairman, Whitehouse.
7 And I want to thank you and Co-Chair Grassley for holding
8 this hearing. And I want to thank all of the witnesses for
9 your work and for your testimony. I want to start with a
10 question to you, Director McDaniel, and Senator Grassley
11 covered some of this, and there may be some overlap here as
12 we have come in and out, so my apologies if I am asking you
13 all to be repetitive.

14 But I come from New Hampshire, which has been very,
15 very hard hit by the fentanyl epidemic in particular. But
16 in my State and all across the country, we are seeing a rise
17 in counterfeit pills that are laced with illicit drugs, and
18 they are almost indistinguishable from legitimate
19 medication. Last fall, I urged the DEA to take further
20 action to address the danger of counterfeit pills.

21 Consumers may think they are buying real medicine, but
22 often wind up with fake pills laced with fentanyl or now
23 methamphetamines. In 2021, the DEA seized over 20 million
24 counterfeit pills, many of which contained a potentially
25 lethal dose of fentanyl. How is HIDTA helping Federal,

1 state, and local law enforcement tackle the developing
2 threat of counterfeit pills?

3 Mr. McDaniel. We -- first of all, I agree with you, I
4 cannot personally tell the difference between counterfeit
5 and real, and our investigators can't either. And we are
6 actually, the HIDTA program, especially up in your area, up
7 there in New Hampshire, they have done -- you had law
8 enforcement coming in and going, guys, we can't continue to
9 do the same thing over and over, and we have to actually do
10 something different.

11 And it was the chief of police sitting there with feral
12 people in your state, and they were actually saying we got
13 to think out of the box. And they actually developed
14 strategies that were more of, we are working with treatment
15 and prevention more than we ever have. And I would say in
16 all my years of law enforcement, I never thought I would say
17 this, but I definitely say we can't arrest are our way out
18 of this problem, and it is through innovative strategies
19 that were developed up in New England HIDTA, in your area,
20 and New York, New Jersey HIDTA that it is actually called
21 the overdose response that has gone -- ONDCP has sent it out
22 nationwide. It is part of all the HDTAs now, and I am
23 really happy about what it is doing.

24 Senator Hassan. Well, I appreciate that. And I take
25 it, and Ms. Kumar, you would like to respond to this, too.

1 So I will just say quickly, law enforcement has been
2 extraordinary, both in their efforts to combat the cartels
3 and the supply, but also an understanding the seed of the
4 demand and really urging us to do more treatment and
5 recovery. So it has been a real partnership, and I am
6 extraordinarily grateful to them. Ms. Kumar, what did you
7 want to say?

8 Ms. Kumar. No, I just wanted to add that, you know,
9 Director McDaniel raised sort of very important issues. But
10 one thing that we have noticed that a lot of these pill
11 presses are coming in from China.

12 And so our recommendations on the value of the
13 Corporate Transparency Act and beneficial ownership to be
14 able to track who owns the company, provides law enforcement
15 and Director McDaniel the resources to not just have to look
16 at this issue as just an arrest issue, but you can track the
17 money, track the ownership, and then sort of use a targeted
18 sanctions program if necessary.

19 Senator Hassan. Yes. Thank you, I appreciate that
20 very much. We also just have done public outreach to
21 especially make sure teenagers understand that if they buy
22 something on the dark web or on the street, that it may look
23 like a legitimate prescription medication, but it may very
24 likely not be. Professor Realuyo, I wanted to ask you a
25 question. You noted in your testimony that fentanyl and

1 fentanyl precursor chemicals are often manufactured in China
2 and then shipped to Mexico.

3 You have all talked about that. Mexican drug
4 trafficking organizations then process the fentanyl and
5 fentanyl precursors and smuggled them into the United
6 States. And I have heard from my law enforcement how
7 closely they are seeing that relationship to even doing
8 investigations from -- in New England. As noted by Senator
9 Grassley, in return, Mexican drug trafficking organizations
10 often launder their money through Chinese networks by bank
11 transfers, smuggled bulk cash, or even cryptocurrency.

12 Professor, I know we have talked about this in this
13 hearing, but what more can the United States and Congress do
14 to disrupt the flow of cartel funds to China for money
15 laundering? And then I will turn to the rest of you if you
16 have anything to add to the testimony you have already
17 provided. Professor.

18 Ms. Realuyo. Sure. To echo I think what all of our
19 witnesses today have expressed, we are really fighting the
20 question of how we can expand, in the case of the United
21 States, our human and more broadly financial, and thirdly,
22 the technological resources that we need at FinCEN and
23 through law enforcement and the plethora of other agencies
24 who work in interagency approach to actually go after the
25 money and then go after the traffickers.

1 These are large networks, and they are so innovative.
2 That is something that we saw during the pandemic, is how
3 quickly they were able to adapt. This is the question, then
4 how the Mexican cartels started to produce it, and the
5 switch to producing was because of the interruption of the
6 physical trade between China and Mexico.

7 So this is where we are really coming up against the
8 challenge of how do we keep up with the innovations of these
9 TCOs? And then sadly too, they actually take advantage of
10 all the physical wealth they have to avail themselves of new
11 technologies and this conversion of, let's say, laboratories
12 that used to be profiting and producing heroin from poppy to
13 actually synthetic drugs that are a, more in demand, and
14 much more profitable and lower risk.

15 They don't have to deal with issues like the
16 cultivation of poppy in terms of floods or anything else.
17 But this is why we have to actually devote more intelligence
18 resources and law enforcement resources to go after this
19 problem and address this in our bilateral engagement
20 directly with China.

21 Senator Hassan. Thank you. And I will ask any of the
22 three physically in the room if you want to briefly add.
23 Yes, Ms. Kumar.

24 Ms. Kumar. Thank you. Thank you, Senator. In the
25 context of the China issue, one thing is also critical to

1 remember is that a lot of the money movements that we are
2 seeing and the use of sort of trade based money laundering
3 or black market based exchange is because of currency
4 controls that exist in the country.

5 And the money laundering techniques are a direct result
6 of those currency controls in the country. So ensuring that
7 the U.S. has perhaps a trade transparency unit relationship
8 with China, which we don't currently have, as a way to
9 exchange information is another way to sort of target this
10 work around currency controls in the country.

11 Senator Hassan. Excellent. And Director.

12 Mr. McDaniel. I also want this committee to, if you
13 are not aware, the amazing amount of markup that the cartels
14 are making on fentanyl and the push, what is going on in a
15 kilo right now in Houston, you can buy a kilo of fentanyl
16 for \$30,000. A kilo of fentanyl will actually equate to
17 1,000 -- to a million milligrams of fentanyl, and you can
18 make a million tablets out of that and sell them anywhere
19 from \$6.50 to \$65 in Houston, equating to a \$6 million to a
20 \$37 million markup.

21 And the pills that were seizing in all across the
22 country are usually containing somewhere between one
23 milligram and two milligrams, more like 1.5, but anything
24 over that is lethal. So just that is why the cartels --
25 this is, I have never seen something with a profit margin

1 like fentanyl, and I don't see them slowing down at all.

2 Senator Hassan. It is high profit margin and very easy
3 to smuggle obviously, and those two things make it just
4 particularly attractive thing. I want to ask one more
5 question if -- Ms. Hanichak, I didn't know if you had
6 anything to add to this discussion.

7 Ms. Hanichak. The only thing I would add, Senator, is
8 just to add to my colleagues' comments about the importance
9 of increasing collaboration. I will just note that as part
10 of the Summit for Democracy, there will be a follow on
11 cohort led by the United States focusing on anti-money
12 laundering issues.

13 As we are looking forward to that 2.0 Summit for
14 Democracy in December, I really would like to emphasize the
15 importance that the United States increase resourcing not
16 only to its own financial intelligence unit, FinCEN, but
17 also collaborate with financial intelligence units in other
18 countries to make sure that they have the appropriate
19 resources that they need to tackle this problem.

20 Senator Hassan. Well, thank you. One last question.
21 I will start with the professor, please, and it is just
22 about the dark web. It is increasingly become the dominant,
23 one of the dominant marketplaces for illicit drug sales to
24 consumers. Drug sales are facilitated and anonymized on the
25 dark web, with payment in cryptocurrency and drugs delivered

1 through the mail.

2 I am going to be introducing a bill soon with Senator
3 Cornyn, which is aimed at combating drug sales on the dark
4 web and strengthening the authority of the Joint Criminal
5 Opioid Darknet enforcement, or JCOD, to go after dark web
6 marketplaces.

7 What more can Congress do to combat the use of the dark
8 web and other emerging technologies by drug trafficking
9 organizations? And we will start with you, Professor.

10 Ms. Realuyo. Sure. First, I applaud your initiative.
11 It is super important. But also we actually have to start
12 with educating our population. What happened during the
13 pandemic since everyone was online, all of these bad habits,
14 and more importantly, the proliferation of the sale and
15 marketing to our youth of promoting drug use and
16 consumption, that is where we have seen -- many parents
17 didn't know what their children were doing in their rooms or
18 in the basement. And this is this question about how we
19 have to educate.

20 As I mentioned in my opening remarks, every single
21 generation is being affected by the opioid epidemic and
22 these counterfeit pills. And this is where education is so
23 important and all of us can do this in terms of our own
24 individual impact on our communities and in your
25 constituencies.

1 And we have seen too, not just by adding resources, but
2 really advocating these public awareness campaigns. It is
3 even more urgent than it was prior to the pandemic, as we
4 have seen the mental health impact of COVID-19.

5 Senator Hassan. Thank you. Anybody else want to add
6 before we close out? Well, with that, I thank you all so
7 much for excellent testimony, very helpful testimony to all
8 of us, and as importantly, all the work that you do, and I
9 look forward to continuing to work with all of you.

10 With that, I am going to close out this hearing and
11 just say that the record will remain open for one week from
12 today, if anybody has questions to submit or additional
13 testimony to provide. Thank you all. And with that, we
14 will close the hearing.

15 [Whereupon, at 3:10 p.m., the hearing was adjourned.]

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Written Statement of

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on

**“Countering the Evolving Drug Trade
and the Digitalization of Illicit Networks in the Americas”**

at a Hearing on

“The \$150 Billion Drug Market: A Dive into the Economics of Cartels”

before the

Senate Caucus on International Narcotics Control

on

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¹ The views expressed in this testimony are that of the author and do not necessarily reflect the views of the William J. Perry Center for Hemispheric Defense Studies, National Defense University, or the Department of Defense. Testimony is drawn from the author’s publications, “Countering the Evolving Drug Trade in the Americas,” The Woodrow Wilson Center, January 2020, https://www.wilsoncenter.org/sites/default/files/countering_the_evolution_drug_trade_in_the_americas.pdf and “U.S.-Mexican Security Cooperation Faces the Future,” American Foreign Policy Council Defense Dossier, December 2021, <https://www.afpc.org/publications/e-journals/the-americas-influx>

Introduction

Thank you Chairman Whitehouse and Co-Chairman Grassley and members of the Senate Caucus on International Narcotics Control for the opportunity to testify on countering the evolving drug trade and the digitalization of illicit networks in the Americas. During the COVID-19 pandemic, transnational criminal organizations (TCOs), such as the Mexican cartels, have demonstrated their ability to quickly adapt to a changing environment and leverage emerging technologies to empower and enrich themselves. This testimony will examine the transforming drug market, the U.S. opioid epidemic, the role of the cyber domain as a force multiplier for drug trafficking and money laundering and recommend measures to counter the illicit economy.

The illicit drug trafficking business relies on the dynamic between supply and demand and is one of the most lucrative activities of transnational criminal organizations. These groups seek to maximize profits and sustain themselves through illicit financial flows. The illicit drug trade not only has detrimental health implications for consumers but fuels violence, insecurity, instability and corruption in nations along the production, transportation, distribution and consumption stages of this criminal enterprise. Drug trafficking is just one of the illicit activities TCOs engage in. They are also involved in human smuggling, arms trafficking, illegal mining, contraband, money laundering and public corruption. These crimes are accompanied by high levels of violence, and organized crime groups pose serious threats to citizen security and prosperity worldwide. Illicit financial flows serve as the lifeblood for all aspects of the criminal economy and curbing them is essential to impact global drug trafficking. Globalization has promoted movement of capital, financial innovations, and new technology such as mobile payments and digital currencies that have magnified the threat from illicit financial flows, the drug trade and transnational organized crime.

To combat drug trafficking, the U.S. and its partners must concentrate equally on supply and demand reduction with far-reaching strategies and policies that engage the public, private and civic sectors of society. The UNODC World Drug Report 2020 estimated that 269 million people abused drugs in 2018, that represented a 30% increase from 2009. Cannabis was consumed most widely in 2018, with an estimated 192 million users globally. Opioids, the deadliest of

misused drugs, recorded a 71% rise in deaths over the past decade, registering increases of 92% among women and 63% among men. Demand reduction is essential in combating drug trafficking with strategies that address prevention, treatment, recovery and international cooperation. Substance use disorder is a major public health threat, which unfortunately has intensified due to the COVID-19 pandemic since 2020. Drug use disorder is a preventable and treatable disease, and the drug trade threatens countries' political and social stability.²

Supply reduction is equally important in reducing drug trafficking. Restricting supply makes illicit drugs scarcer, more expensive and less socially tolerated. All phases of the drug trade that include cultivation, production, transportation, distribution, sales and income generation must be addressed. Efforts to reduce supply must be undertaken at the local, national and international levels. Nations should leverage diplomatic, military, intelligence and law enforcement capacity to interdict drug shipments, identify criminal networks and bring traffickers to justice.

The Evolving Drug Trade

The illicit drug trade in the Americas has been evolving from plant-based narcotics like cocaine, heroin and marijuana to potent synthetic substances like fentanyl and methamphetamine and has expanded due emerging technologies enabling marketing and trafficking. Since the 1980's, the U.S. war on drugs focused on countering cocaine trafficking that made the Colombian and Mexican cartels immensely wealthy and powerful. Over the past decade, U.S. drug consumption has shifted significantly from cocaine to opioids and methamphetamine, resulting in an unprecedented opioid epidemic in the U.S. with 104,288 people died of drug overdoses in the 12-month period ending September 2021, according to the Centers for Disease Control and Prevention.

Narcotics trafficking continues to be the most profitable illicit activity in the world but is adapting and leveraging cyberspace. As cocaine production in Colombia reaches its highest levels in history but consumption in the U.S. falls, cocaine traffickers

² U.S. Department of State, International Narcotics Control Strategy Report Volume 1, March 2021, <https://www.state.gov/wp-content/uploads/2021/02/International-Narcotics-Control-Strategy-Report-Volume-I-FINAL-1.pdf>

are seeking new markets as far as Asia and Europe where they can secure two to three times the proceeds more than in North America. Cocaine traffickers have gone global and are engaged in circumnavigating the world and stepping up their use of submarines. Meanwhile, heroin use in the U.S. has spread across suburban and rural communities and socioeconomic classes with over 90% of heroin in the U.S. originating from Mexico. Potent synthetic opioids like fentanyl have become more prevalent and popular in the U.S. that has resulted in the tragic opioid crisis.

Mexican cartels are increasingly trafficking opioids and synthetics responding to the changing U.S. consumer market. Cartel Jalisco Nueva Generación, Sinaloa Cartel and the Gulf Cartel are the most powerful and dangerous transnational criminal organizations in Mexico. The atomization of large Mexican cartels and increased competition to dominate trafficking routes resulted in near record levels of violence in Mexico with 33,308 homicides registered in 2021. The cartels have remained active during the pandemic, trafficking dangerous drugs like fentanyl, heroin, meth and cocaine into the U.S. despite the COVID-19 lockdowns, closed borders and paralyzed international trade. Transnational criminal organizations have adapted quickly to the new pandemic environment. They are taking advantage of the fact that governments and security forces have been so focused on pandemic response rather than fighting crime. These groups are expanding their control of trafficking routes and markets and winning hearts and minds by providing COVID-related social services to marginalized communities in Mexico.

The DEA 2020 National Drug Threat Assessment published in March 2021 stated that Mexican drug trafficking organizations remain the greatest criminal drug threat to the United States. They are increasingly responsible for producing and supplying deadly fentanyl to the U.S. market. In Fiscal Year 2021, Customs and Border Patrol seized 624,500 pounds of drugs. Compared to last fiscal year, cocaine seizures increased 68%; methamphetamine seizures increased 7%; heroin seizures decreased 6%; and fentanyl seizures increased by a record 134%.³ With the pandemic lockdowns lifted and the U.S.-Mexican border reopened, drug trafficking destined for the U.S. is expected to surge as American demand for synthetic drugs like fentanyl and meth rises. The situation was

³ U.S. Customs and Border Patrol, Fiscal Year 2021 Statistics, <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-operational-fiscal-year-2021-statistics>

exacerbated since substance abuse treatment centers were closed due to COVID-19, and emergency room visits for mental health conditions, domestic violence, child abuse, and suicide attempts increased.

The U.S. Opioid Epidemic

The U.S. is experiencing an ever increasing opioid epidemic. According to the Centers for Disease Control and Prevention (CDC), an average of 136 Americans die every day from an opioid overdose. The CDC reported that a record 104,288 people died of drug overdoses in the 12-month period ending September 2021 mainly due to opioids, and fentanyl has become the number one cause of death for adults 18-45 of age. Around 68% of the 70,237 drug overdose deaths recorded in 2017 involved an opioid. In 2017, the number of overdose deaths involving opioids (including prescription opioids and illegal opioids like heroin and illicitly manufactured fentanyl) was six times higher than in 1999.⁴

The first wave of overdoses began with increased prescribing of opioids in the 1990's with overdose deaths involving prescription opioids (natural and semi-synthetic opioids and methadone) increasing since at least 1999. Several U.S. pharmaceutical companies, including Johnson and Johnson and Perdue Pharma, are being blamed and sued for promoting prescription opioid use and contributing to the opioid epidemic. The second wave began in 2010, with rapid increases in overdose deaths involving heroin coming from Mexico. The third wave began in 2013, with significant increases in overdose deaths involving synthetic opioids, particularly those involving illicitly-manufactured fentanyl. The fentanyl market continues to grow and can be found in combination with heroin, counterfeit pills, and cocaine with most fentanyl coming from China and Mexico.⁵

Heroin: Heroin is an addictive opioid drug made from morphine, a natural substance taken from the seed pod of opium poppy plants. It can be a white or brown powder, or a

⁴ CDC/National Center for Health Statistics, National Vital Statistics System, Mortality. CDC WONDER, Atlanta, GA: U.S. Department of Health and Human Services, CDC; 2018. <https://wonder.cdc.gov>

⁵ *Ibid.*

black sticky substance known as black tar heroin that users inject, sniff, snort, or smoke. Since 2010, heroin availability in the United States has increased as Mexican transnational criminal organizations switched from trafficking marijuana and cocaine to the much more profitable heroin into the U.S. In 2015, 93 percent of the heroin analyzed entering the United States came from Mexico. Since poppy has such a short growing cycle of just four months, it is a very efficient crop in Mexico. Heroin laboratories located close to poppy fields are heavily dependent on precursor chemicals coming from China that transform the raw opium from poppy pods into the highly addictive narcotic.⁶

Heroin is readily available in the United States and is sold in various forms: fine powder, sticky tar, granular or chunky, gummy/pasty, pills, or a rock-like black substance that shatters like glass and is smoked, snorted, or injected. The CDC reported 21 percent increase in 2016 drug deaths involving heroin in 2016 at 15,469 over the 12,989 recorded in 2015.⁷ From January 2016 through December 2016, the price per pure gram (PPG) for heroin increased 5.5 percent, from \$855 to \$902 while the purity level averaged 33 percent, a slight dip from the prior years.⁸ Mexican traffickers are widening their profit margins and intensifying the “high” from low-quality heroin by mixing it with fentanyl that is much more powerful than heroin.

DEA Field Divisions seized 6,951 kilograms of heroin in 2019, a 30 percent increase from 2018, with the largest amounts of heroin seized in Texas, California, Arizona, and New York. California, Texas and Arizona are all major entry points for heroin sourced from Mexico and also serve as transshipment points for the onward movement of heroin to domestic markets throughout the United States. New York is regarded as the most significant heroin market.⁹ DEA Field Divisions reported heroin price increases as a result of the COVID-19 pandemic in 2020 in El Paso, Chicago, Denver, Houston, Louisville, New Orleans, New Jersey, New York, Philadelphia, and

⁶ U.S. Department of Justice DEA 2017 National Drug Threat Assessment, https://www.dea.gov/sites/default/files/docs/DIR-040-17_2017-NDTA.pdf

⁷ Department of Justice DEA 2018 National Drug Threat Assessment Report, October 2018, <https://www.dea.gov/sites/default/files/2018-11/DIR-032-18%202018%20NDTA%20final%20low%20resolution.pdf>

⁸ *Ibid.*

⁹ U.S. Department of Justice DEA 2020 National Drug Threat Assessment Report, March 2021, https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment_WEB.pdf

San Diego. It is possible that fentanyl availability experienced such little change during the pandemic due to the relatively smaller volumes of the drug needed to generate high amounts of revenue for drug traffickers, reflecting fentanyl's high potency, and the relatively small quantities needed for users to experience its effects. Pandemic-related challenges for drug trafficking organizations selling heroin, fentanyl, and other synthetic opioids have included supply uncertainty associated with fluctuating state lockdown orders throughout the United States and border restrictions issued by the United States and Mexico.¹⁰ More recently, the heroin trade has been overtaken by the more lucrative synthetic opioid market in illicit fentanyl.

Fentanyl: Fentanyl is a powerful synthetic opioid that produces effects such as relaxation, euphoria, and pain relief similar to morphine, oxycodone, methadone, and heroin but is some 50 times more potent. It can be used legally with a prescription, but illicit fentanyl is smuggled into the United States primarily in powder or counterfeit pill form that can be deadly in very small doses of as little as 0.25 milligrams.¹¹ China is the principal source country of illicit fentanyl and fentanyl-related compounds in the U.S., according to U.S. Customs and Border Protection. Fentanyl analogs and precursor chemicals used to make fentanyl are illicitly manufactured in Chinese labs and then sold on the Darknet and shipped in bulk to the U.S. and Mexico. Similarly, non-pharmaceutical fentanyl is increasingly being manufactured in Mexico and transported into the United States via well-established drug trafficking routes across the southwest border.

One kilogram of fentanyl costs about \$32,000, which can be used to make one million pills with a street value of more than \$20 million according to the DEA. Fentanyl trafficking into the United States generally follows one of two pathways:

1. direct purchase of fentanyl from China by U.S. individuals for personal consumption or domestic distribution and

¹⁰ *Ibid.*

¹¹ American Addictions Center, "Fentanyl vs. Heroin: The Similarities and Differences Between Two Powerful Opioids," September 2019, <https://americanaddictioncenters.org/fentanyl-treatment/similarities>

2. cross-border trafficking of fentanyl from Mexico by transnational criminal organizations and smaller criminal networks.

How does the illicit fentanyl trade work? Orders and purchases from China are brokered over the internet. The predominant funding mechanisms associated with fentanyl trafficking patterns include:

1. purchases from a foreign source of supply made using money services businesses (MSBs), bank transfers, or online payment processors;
2. purchases from a foreign source of supply made using convertible virtual currency (CVC) such as bitcoin, bitcoin cash, ethereum, or monero;
3. purchases from a U.S. source of supply made using an MSB, online payment processor, CVC, or person-to-person sales; and
4. other, more general money laundering mechanisms like bulk cash smuggling associated with procurement and distribution.¹²

China has been accused of fueling the opioid crisis by exporting fentanyl and exploiting the U.S. Postal Service and international express mail carriers to ship fentanyl directly into the United States. According to a federal investigation, Chinese fentanyl dealers warned their U.S.-based customers via email that private delivery companies like FedEx electronically tracked packages, that would allow the easy identification of mail from suspect addresses and create a trail connecting sellers and buyers of illegal fentanyl, and they advised American fentanyl buyers they would send shipments by regular mail through the U.S. Postal Service to avoid detection.¹³

The U.S. Postal Service (USPS) has stepped up tracking, detection and interdiction efforts to curb the fentanyl trafficking into the U.S. through the mail. Congress has ordered the agency get advanced electronic data on 100% of inbound

¹² FinCEN Advisory to Financial Institutions on Illicit Financial Schemes and Methods Related to the Trafficking of Fentanyl and Other Synthetic Opioids, August 21, 2019, <https://www.fincen.gov/sites/default/files/advisory/2019-08-21/Fentanyl%20Advisory%20FINAL%20508.pdf>

¹³ Sari Horwitz and Scott Higham, “The flow of fentanyl: In the mail, over the border,” *The Washington Post*, AUGUST 23, 2019, <https://www.washingtonpost.com/investigations/2019/08/23/fentanyl-flowed-through-us-postal-service-vehicles-crossing-southern-border/?arc404=true>

shipments by December 2020, with an urgent emphasis on parcels coming from China. By requiring data on the sender, recipient and the contents of an international parcel and incorporating new technology to scan packages, the postal service witnessed a 1,000% increase in the number of parcels seized containing synthetic opioids between 2016 and 2018. USPS saw the number of opioid parcel seizures increase by 750% domestically in the same timeframe.¹⁴ In September 2020, USPS issued their Strategy on Combating Illicit Drugs in the Mail.

Mexico has become a major transit and production point for fentanyl and its analogs. Mexico's two largest criminal organizations, the Sinaloa Cartel and the Jalisco Cartel New Generation (Cartel de Jalisco Nueva Generación – CJNG), are the most important Mexican purveyors of the drug and its precursors, although smaller criminal organizations and contractors may play significant roles in production and transport of the drug along the distribution chain. Both large and small transnational criminal organizations are capitalizing on the drug's popularity, and fentanyl is being laced into other substances such as cocaine, methamphetamine, and marijuana, without the end-user even knowing it. Rising seizures of counterfeit oxycodone pills laced with fentanyl illustrate that the market is evolving and adapting to consumer demand.¹⁵ The U.S. government has seized enough fentanyl this year (2021) to give every American a lethal dose, according to DEA Administrator Anne Milgram. With this shift from mail shipments of fentanyl from China to cross-border movement from Mexico, border security officials are enhancing measures to detect and interdict fentanyl trafficking into the U.S.

Methamphetamine's Comeback: While much of the focus in the U.S. has been on the opioid epidemic, the trafficking and consumption of methamphetamine (meth) has increased dramatically; meth is coming into the U.S. from Mexico at historical levels. Meth is a powerful, highly addictive stimulant, originally used in nasal decongestants and

¹⁴ Leandra Bernstein, Most fentanyl is now trafficked across US-Mexico border, not from China," WJLA News, July 16, 2019, <https://wjla.com/news/nation-world/most-fentanyl-is-now-trafficked-across-us-mexico-border-not-from-china>

¹⁵ Steven Dudley, Mexico's Role in the Deadly Rise of Fentanyl, Fentanyl: Summary and Major Findings, *InSight Crime*, February 19, 2019, <https://www.insightcrime.org/investigations/fentanyl-summary-major-findings/>

bronchial inhalers, that causes increased activity, talkativeness, and a pleasurable sense of well-being or euphoria. Lately, it has been marketed as a “safer” alternative to fentanyl because the chance of a deadly overdose from meth is not as great. Between 2017 and 2018, meth seizures in the U.S. increased by 142%, and overdose deaths from meth increased by 21% from 10,749 to 12,987 according to the CDC. DEA seized 53,079 kilograms of methamphetamine nationwide in 2019, an increase of 55 percent from 2018 (34,270 kilograms).¹⁶

According to the DEA, methamphetamine lab seizures have fallen across the United States to their lowest level in 15 years. However, the drug remains prevalent and widely available, with most of the methamphetamine in the U.S. produced in Mexico and smuggled across the southwest border. Meth seizures by U.S. Customs and Border Protection's Office of Field Operations have grown substantially, from 14,131 pounds in fiscal 2012 to 56,373 in fiscal 2018. Opioid-related deaths lead by far in the U.S., but when looking at the number of crimes committed by people under the influence of a particular drug, from stealing cars and burglarizing homes to rapes and shootings, meth is the No.1 common denominator.¹⁷

Mexican cartels are dominating the meth market as they can produce a more potent version of the drug, more economically. They have put domestic producers out of business in the U.S. According to Van Ingram, executive director of the Kentucky Office of Drug Control Policy, Mexican meth is so cheap you could not make it for cheaper than you could buy it. On June 6, 2019, three large meth labs were dismantled in Sinaloa, Mexico that were to produce 17 million doses of meth worth an estimated at \$160 million in the U.S. New technologies like drones that detect heatwaves of uninhabited areas are helping the Mexican military to detect meth labs. The Mexican authorities have dismantled 20 labs in Sinaloa so far in 2019.¹⁸ The cartels are bringing the meth into the U.S. at record levels, even using drones or aircraft and disguised it in different formats

¹⁶ DEA 2020 National Drug Threat Assessment, https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment_WEB.pdf

¹⁷ Katelyn Newman, “Breaking Back to Meth? As the opioid crisis snags headlines and attention, police in many parts of the country are grappling with a surge in meth from Mexico,” *U.S. News*, March 12, 2019, <https://www.usnews.com/news/healthiest-communities/articles/2019-03-12/meth-from-mexico-a-growing-problem-for-law-enforcement>

¹⁸ France 24, “Three large meth labs dismantled in Mexico,” June 5, 2019, <https://www.france24.com/en/20190605-three-large-meth-labs-dismantled-mexico>

such as cleaning fluids, in food items, and even in statues. On February 13, 2022, U.S. Customs and Border Protection officers seized nearly \$3 million worth of meth hidden in small packages within a shipment of onions at a commercial facility in San Diego from Mexico. The packages, detected by a canine unit, were mixed with the onion shipment in sacks; they were shaped into small globes with a white covering, designed to blend into the onions they were hidden with. This illustrates the ingenuity and the lengths drug trafficking organizations are willing to go to as they try to smuggle narcotics into the U.S.¹⁹ There is concern that increased meth consumption and supply could become the next drug crisis in the U.S.²⁰

The Digitalization of the Drug Trade in the Darknet

The marketplace for narcotics like cocaine, heroin, fentanyl, and methamphetamine has been supercharged by technology and the Internet, particularly by the Darknet. The deep web is the entire web that is not accessible by conventional search engines. Within the deep web, the Darknet is a network of websites with their IP address details intentionally hidden, often linked to criminal activity and illegal markets including drug trafficking. Narcotics transactions via the Darknet provide anonymity, choice, efficiency, ease of payment with cryptocurrencies like Bitcoin, and the convenience of having the narcotics delivered by mail to consumers.²¹ This online evolution, or digitalization, is disrupting and complementing the traditional marketing and distribution of narcotics.

Illicit online drug sales have grown in volume and complexity since the days of Silk Road, the original Darknet market that came online in 2011 and was taken down in 2013 by the FBI. The dealers who had been selling the drugs on that market migrated to competing sites set up with a similar infrastructure, using the Tor web browser, which

¹⁹ Emma Tucker, Authorities seize almost \$3 million worth of meth disguised as onions in California, CNN.com, February 26, 2022, <https://www.cnn.com/2022/02/26/us/border-patrol-meth-shipment/index.html>

²⁰ Charlie Lapastora, “Mexican drug cartels fueling meth comeback in US, with seizures at ‘historically high levels,’ Fox News, September 20, 2019, <https://www.foxnews.com/us/meth-border-mexican-drug-cartels>

²¹ Olga Khazan, “The Surprising Ease of Buying Fentanyl Online: To get extremely potent opioids, users turn to the dark web—and sometimes, Google,” *The Atlantic*, January 2018, <https://www.theatlantic.com/health/archive/2018/01/the-surprising-ease-of-buying-fentanyl-online/551915/>

hides the location of the websites and their viewers, and Bitcoin, which allows for essentially anonymous payments. In 2017, when the police took down two of the biggest successors to Silk Road, AlphaBay and Hansa market, there was five times as much traffic happening on the Darknet as the Silk Road had at its peak, according to Chainalysis, a firm that analyzes Bitcoin traffic.

On Empire, one of the largest markets still online, people could choose from more than 26,000 drug and chemical listings, including over 2,000 opioids, shipped right to their mailbox. In June 2019, customers could still purchase five grams of heroin — “first hand quality no mix” — for 0.021 Bitcoin (roughly \$170), or a tenth of a gram of crack cocaine for 0.0017 Bitcoin (roughly \$14) on the dark market known as Berlusconi. Darknet markets are one of the vital sources of fentanyl and other synthetic opioids produced in and sent from China. Despite enforcement actions over the last six years that led to the shutdown of about half a dozen sites, including the takedowns of Wall Street Market and Valhalla, there are still close to 30 illegal online markets, according to DarknetLive, a news and information site for the Darknet. The desire to order drugs from the comfort of home and to maximize income from drug sales appears for many to be stronger than the fear of getting arrested.²²

Before and increasingly during the pandemic, the cartels have been capitalizing on cyberspace using online markets and cryptocurrencies to sell, finance and profit from the drug trade.²³ They are populating social media platforms like TikTok and Instagram to market narcotics, glorify the “narco” lifestyle and even recruit young people known as “ni-ni’s” (who neither study nor work) to their organizations. The Drug Enforcement Administration has warned of the alarming increase in the availability and lethality of fake prescription pills containing fentanyl and methamphetamine and their availability online. Teenagers on social media are two degrees of separation away from a drug dealer.

²² Nathaniel Popper, “Dark Web Drug Sellers Dodge Police Crackdowns, The notorious Silk Road site was shut down in 2013. Others have followed. But the online trafficking of illegal narcotics hasn’t abated,” *The New York Times*, June 11, 2019

<https://www.nytimes.com/2019/06/11/technology/online-dark-web-drug-markets.html>

²³ Steve Fisher and Kirk Semple, “Hit Hard by the Pandemic, Mexico’s Drug Cartels Tweaked Their Playbook,” *New York Times*, December 29, 2020,

<https://www.nytimes.com/2020/12/29/world/americas/mexico-pandemic-drug-trade.html>

The DEA has published a “reference guide” to alert the public that drug dealers and traffickers have been using emojis on social media to target children and teenagers, according to authorities. The guide was accompanied by a list of emojis that the DEA said represent certain narcotics, including Oxycodone, Xanax, cocaine, marijuana, and more. This was in response to drug traffickers increasingly using smart phones to distribute, sell and buy fake pills and using emojis to reach a younger market.

Meanwhile, in a disturbing development, already well-armed Mexican cartels are increasingly employing emerging technologies like drones used for surveillance, propaganda videos, night vision combat operations and kinetic attacks on adversaries. The incorporation of emerging technology and the exploitation of cyberspace and social media platforms are expanding and empowering narcotics trafficking and consumption.

Illicit Financial Flows and Adaptive Money Laundering Mechanisms

Financing serves as the oxygen for criminal networks whose main objective is income generation from illicit activities. They derive power from their wealth and use it to corrupt and co-opt rivals, facilitators, and/or government and security officials.²⁴ Financing is essential to support and sustain the command and control, personnel, arms, communications, logistics and operations of organized crime groups. For this reason, following the money trail and depriving criminals of illicit financial flows can disrupt and disable these networks.

Through money laundering, criminals try to disguise the proceeds, sources, or nature of their illicit activities. Terrorist financing refers to the processing of funds to sponsor or facilitate terrorist activity that could include clean and dirty funding. Methods of money laundering and terrorist financing include: the banking system, cash couriers, bulk cash smuggling, money services businesses, alternative remittance systems (hawalas), store of value, trade-based money laundering, mobile or internet payments, cryptocurrencies, non-profit organizations, real estate and

²⁴ Celina B. Realuyo, “The Future Evolution of Transnational Criminal Organizations and the Threat to U.S. National Security,” *The Shifting Human Environment: How Trends in Human Geography Will Shape Future Military Operations*, Paul T. Bartone & Mitchell Armbruster, Editors, Defense and Technology Paper 107, National Defense University Press, May 2015, <http://ctnsp.dodlive.mil/2015/05/06/dtp-107-shifting-human-environment-how-trends-in-human-geography-will-shape-future-military-operations/>

front companies. While terrorist financing and money laundering may have different objectives, they share similar tactics that abuse and undermine international financial systems.²⁵ Here are some ways transnational criminal organizations move, hide and store their income.

The Mexican cartels are among the richest and most powerful transnational criminal organizations in the world that engage in drug and human smuggling; they resort to various methods to move and launder their money. While they continue to practice cross-border bulk cash smuggling, the cartels have turned to shell companies to launder millions of dollars, through an intricate scheme that involves national and international money transactions. Criminals use straw men to create these companies, including real state companies, jewellery stores, and consulting services; all these companies made transactions that do not match their tax returns. Furthermore, the money laundering network employs housewives, students and bank tellers. In 2014, the Mexican Financial Intelligence Unit found four companies that sent and received resources to hide the origin and destiny of the resources. The four companies were created on the same day in 2012 and had the same address and the same legal representative, who turned out to be a straw man. After it launched an investigation into a more complex money laundering scheme, it found that four shell companies received and transferred MXN 3,523.2 million in less than two years. These companies were linked with another three companies that were being investigated for working for the Sinaloa Cartel.²⁶

Trade-based money launderers (TBML) continue to engage in a sort of parallel method of transferring money and value around the world. These methods often entail the alteration of shipping documents or invoices and are frequently undetected. The Black Market Peso Exchange (BMPE), one trade-based money laundering scheme, is often used by Mexico-based drug trafficking organizations to collect money from their drug sales in the U.S. without having to take the risk of

²⁵ Celina B. Realuyo, "Leveraging Financial Intelligence to Counter Transnational Threat Networks in the Americas," *U.S. Southern Command Dialogo Magazine*, March 2019 Special Edition, English: [https://dialogo-](https://dialogo-americas.com/articles/leveraging-financial-intelligence-to-counter-transnational-threat-networks-in-the-americas/)

[americas.com/articles/leveraging-financial-intelligence-to-counter-transnational-threat-networks-in-the-americas/](https://dialogo-americas.com/articles/leveraging-financial-intelligence-to-counter-transnational-threat-networks-in-the-americas/)
²⁶ Zorayda Gallegos, "Mexican drug cartels used these shell companies to launder money," *El Universal*, June 6, 2020, <https://www.eluniversal.com.mx/english/mexican-drug-cartels-used-these-shell-companies-launder-money>

smuggling bulk amounts of U.S. currency across the Mexican border and without having to convert and wire the U.S. currency through established financial institutions, which not only carries transaction fees, but also a threat their illegal activity will be detected.

In a BMPE scheme, a peso broker works with an individual engaged in illegal activity, such as a drug trafficker, who has currency in the U.S. he needs to bring to a foreign country, such as Mexico, and convert into pesos. The peso broker finds business owners in the foreign country who buy goods from vendors in the U.S. and who need dollars to pay for those goods. The peso broker arranges for the illegally obtained dollars to be delivered to the United States-based vendors, such as the stores in the Fashion District, and these illegally obtained dollars are used to pay for the goods purchased by the foreign customers. Once the goods are shipped to the foreign country and sold by the foreign-based business owner in exchange for pesos, the pesos are turned over to the peso broker, who then pays the drug trafficker in the local currency of the foreign country, thus completing the laundering of the illegally obtained dollars.²⁷ The growing network of Trade Transparency Units (TTUs) is intended to combat this method of money laundering through the monitoring of import and export documentation. These units focus on detecting anomalies in trade data—such as deliberate over- and under-invoicing—that can be a powerful predictor of TBML.

Casinos and real estate are also money laundering mechanisms. One such method is known as the Vancouver Model. The process begins in China, where currency controls prevent citizens from taking more than \$50,000 out of the country. To avoid that rule, wealthy Chinese citizens enter into arrangements with domestic criminal syndicates with links to Vancouver, Canada. The citizens transfer money to criminal-controlled bank accounts in China before traveling to Vancouver where the criminals' associates provide them with their funds in

²⁷ U.S. Immigration and Customs Enforcement, Large-scale law enforcement effort targets downtown Los Angeles businesses linked to money laundering for drug cartels, September 14, 2014, <https://www.ice.gov/news/releases/large-scale-law-enforcement-effort-targets-downtown-los-angeles-businesses-linked>

Canadian dollars, which may be profits from pre-cursor chemicals or fentanyl sales. That money is then laundered through casino gambling. The Chinese citizens visit casinos in Vancouver, exchange their money for casino chips, and then make a series of low-value bets and then exchange back the chips to Canadian dollars, now clean of their illegitimate criminal origin. From there, financial proceeds from the Vancouver Model are either invested back into the acquisition of fentanyl supplies by the criminal gangs or invested into British Columbia real estate by the Chinese citizens themselves, who are able to avoid the scrutiny of Chinese regulators and Chinese taxes by doing so. The influx of foreign citizens buying property in Vancouver with their laundered money also impacted the city, causing the cost of living and housing prices to rise to levels unaffordable to most local residents. A 2016 report by Transparency International Canada suggested that almost 50% of the city's most expensive homes were bought using structured purchase methods that could conceal the identity of the owners.²⁸

Chinese money laundering rings have been increasingly moving the drug proceeds of the Mexican cartels earned in the U.S. The Department of Justice in April 2021 reported that three individuals pleaded guilty to their involvement in a conspiracy to launder at least \$30 million of drug proceeds combined throughout the U.S. on behalf of foreign drug trafficking organizations including the Sinaloa Cartel. These guilty pleas are the result of a nearly four-year investigation into the relationship between foreign drug trafficking organizations and Asian money laundering networks in the United States, China, Mexico, and elsewhere. The defendants converted drug proceeds into Chinese and Mexican currency through a variety of methods, including “mirror transfers” in which financial transactions in the U.S. are used to trigger the release of equivalent funds into bank accounts in

²⁸ Comply Advantage Knowledge Base, “Money Laundering: The Vancouver Model,” <https://complyadvantage.com/knowledgebase/vancouver-money-laundering-model/#:~:text=The%20Vancouver%20Model%20is%20a,regulatory%20approach%20to%20financial%20crime>, and Sam Cooper, “How Chinese gangs are laundering drug money through Vancouver real estate,” *Global News*, April 19, 2018, <https://globalnews.ca/news/4149818/vancouver-cautionary-tale-money-laundering-drugs/>

China, with those funds then being used to purchase Chinese goods that are subsequently sold by merchants in Latin American countries, including Mexico.²⁹

Among the defendants in this case, U.S.-based Chinese citizen, Gan Xianbing, was sentenced to 14 years in prison for running a scheme where money from Mexican criminal groups was picked up in Chicago, transferred to bank accounts in China and then ultimately sent back to Mexico. In 2018, Gan handled approximately \$534,206 in drug money before being arrested at Los Angeles Airport in November 2018, during a layover while flying from Hong Kong to Mexico. Gan has since become the most well-known, but far from the only, Chinese money launderer connected to some of Latin America's most dangerous criminal groups, including the Sinaloa Cartel.³⁰

Many of these Chinese brokers are also engaged in legitimate business and use that business as cover for and to further money laundering activity. Once the drug proceeds were in the hands of the launderers, they contacted one among a network of Chinese-owned businesses in the U.S. and Mexico and asked them to transfer a correspondent amount of money through Chinese banking apps. This happened entirely through the Asian country's domestic banking system and outside the purview of US authorities. This technique also allows the laundering process to avoid scrutiny in China. China's financial regulators limit private individuals from handling more than \$50,000 in foreign currency and any transfers surpassing this limit must be granted special dispensation. However, there is no such limit on domestic transfers. It is unclear to what extent the businesses and people used to move this money within China are even aware of the illegal nature of these transactions, making it all the more difficult to crack down on these schemes.³¹

Cyberspace and cryptocurrency are the new frontier for organized crime groups battling for control of vast criminal markets for drugs, arms, sex and people.

²⁹ U.S. Department of Justice, April 14, 2021 Press Release, Three Members of Transnational Money Laundering Network Pleaded Guilty to Aiding Foreign Drug Trafficking Organizations, <https://www.justice.gov/usao-edva/pr/three-members-transnational-money-laundering-network-pleaded-guilty-aiding-foreign-drug>

³⁰ Chris Dalby, How Chinese Criminals Secretly Move Millions for Mexico Cartels, InSight Crime, May 12, 2021, <https://insightcrime.org/news/chinese-money-launderers-mexico-cartels-move-millions-secret/>

³¹ *Ibid.*

To track the use of Bitcoin and other cryptocurrencies designed to anonymize users, the Mexican government instituted a new law in 2018 that requires all registered cryptocurrency trading platforms to report transfers above 56,000 pesos (\$2,830). Bitcoin's use to launder money is particularly increasing among drug gangs such as the Jalisco New Generation Cartel (CJNG) and the Sinaloa Cartel of captured kingpin Joaquin "El Chapo" Guzman, according to U.S. and Mexican authorities. Mexican cartels are believed to launder an estimated at \$25 billion a year in Mexico alone. Criminals typically split their illicit cash into small amounts and deposited them in various bank accounts, a technique known as "smurfing." The threshold for banking transactions that raise red flags is \$7,500. They then use those accounts to buy a series of small amounts of bitcoin online, he added, obscuring the origin of the money and allowing them to pay associates elsewhere in the world. According to the DEA, both Mexican and Colombian transnational criminal organizations are increasing their use of virtual currency because of the anonymity and speed of transactions, and the use of virtual currency will only expand in the future.³² The pandemic just accelerated the digitalization of illicit networks in their use of cryptocurrencies in drug trafficking and money laundering activities.

Measures to Counter the Evolving Drug Trade and Digitalization of Illicit Networks

The U.S. and partner nations must intensify their efforts in drug demand and supply reduction, narcotics detection and interdiction, and counter-money laundering and cyber measures to keep up with the rapid changes in the production, marketing, financing and delivery of drugs, particularly of synthetic drugs. The following measures can contribute to countering the evolving drug trade and digitalization of illicit networks:

1. Permanently place fentanyl-related substances (FRS) into Schedule I of the Controlled Substances Act (CSA) to empower law enforcement's ability to bring those involved in trafficking and producing of illicitly manufactured synthetic opioids to justice.

³² Diego Oré, "Latin American crime cartels turn to cryptocurrencies for money laundering," *Reuters*, December 8, 2020, <https://www.reuters.com/article/mexico-bitcoin-insight-idUSKBN28I1KD>

2. Actively educate Americans of all age groups on the opioid epidemic and deadly dangers from fentanyl-laced counterfeit drugs and opioids.
3. Identify, monitor and dismantle online illicit drug markets and the use of social media for the marketing, sale and promotion of drug consumption, especially to minors, and consider duty of care requirements to reduce the risk of harm to users.
4. Revitalize U.S.-Mexican cooperation to curb drug production, trafficking and the laundering of TCO proceeds under the auspices of the October 8, 2021 Bicentennial Framework for Security, Public Health, and Safe Communities.
5. Hold China accountable for the export of pre-cursor chemicals used for illicit narcotics and fentanyl that has become the number one cause of death of American men aged 18-45.
6. Detect, disrupt and prosecute Chinese money laundering networks associated with the drug trade.
7. Leverage digital and financial intelligence to detect and disrupt the use of cryptocurrencies in counternarcotics operations.
8. Establish specialized units or task forces at the national and international levels to share intelligence and investigate digital illicit financial flows, identify and seize assets and detect, dismantle and deter organized criminal networks engaging in drug trafficking and illicit financial flows.
9. Work with partner countries through the Financial Action Task Force (FATF) and the Egmont Group to share best practices regarding evolving money laundering schemes using cryptocurrencies.
10. Take steps to prevent the possible exploitation of newly emerging financial services and products, such as e-wallet services and cryptocurrencies, for drug trafficking and money laundering.

**STATEMENT OF
F. MICHAEL MCDANIEL
PRESIDENT, NATIONAL HIDTA DIRECTOR'S ASSOCIATION
DIRECTOR, HOUSTON HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA)**

**BEFORE THE
SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL
UNITED STATES SENATE**

**AT A HEARING ENTITLED
"THE 150 BILLION DRUG MARKET: A DIVE INTO THE ECONOMICS
OF CARTEL"**

**PRESENTED
MARCH 2, 2022**

Chairman Whitehouse, Co-Chairman Grassley, and Members of the Committee, thank you for this opportunity to testify on behalf of the National HIDTA Directors' Association (NHDA). Today's hearing is very timely and relevant to the 33 High Intensity Drug Trafficking Areas across the country, along with the state, local, tribal and federal law enforcement agencies that participate in HIDTA task forces. The HIDTA Program was created by Congress in 1991 and is a grant Program designed and funded under the Office of National Drug Control Policy (ONDCP). The mission of the HIDTA Program is to disrupt and dismantle large scale drug organizations operating in the US and abroad. The investigations conducted by the HIDTA drug Task Forces across the country target all aspects of the cartel operations, both domestic and foreign.

The HIDTA Program supports coordinated law enforcement strategies in targeting the cartels that are causing irreparable damage to the communities of our country. Coordinated multiagency, multi-jurisdictional law enforcement strategies generates an exponential increase in investigative results, maximizing the use of available resources to prosecute members of these drug organizations, while reducing the supply of illegal drugs in designated areas across the United States. HIDTA does not fund law enforcement agencies, but rather invests in strategies developed equally in federal, state, local and tribal partnerships. The strength of the HIDTA Program is found in its innovation, expanded scope of mission and diversity. It cannot be emphasized enough that the cornerstone of the Program is in its demonstrated ability to bring people and agencies together to work towards the common goal of dismantling the cartels.

Techniques and Methodologies Used by Drug Law Enforcement to Investigate Drug Cartel

HIDTAs and their associated law enforcement partners across the country use a broad array of techniques and methodologies to investigate drug cartel and their money laundering operations. These techniques and methodologies fall into several general categories; Investigative Methods, Intelligence, and Technology.

Investigative Methods include what might be considered “old school” police work. Highly trained investigators work alongside each other to use all available tools to identify and track drug leads. These tools include surveillance of members of the drug organizations, identification of transportation and distribution methods used by an organization, strategic, intelligence-driven highway interdiction to identify the conveyances used to transport their drug and currency shipments across the country, and in the development of cooperating individuals. This often involves interactions with identified lower-level members of these organizations. These human interactions often lead to information that allows investigators to “work up the chain of command” to higher level cartel members. Lower-level drug traffickers are more likely to work with investigators, especially when they are facing potential jail time for their involvement. These confidential informants provide investigators with a significant advantage, since these informants already have a trusted relationship and role/function to fulfill for the cartel members within their chain of command. These efforts are enhanced and multiplied by the collocated, comingled status of state, local and federal personnel working under the HIDTA umbrella.

Intelligence Gathering includes the use of highly trained intelligence analysts and specialized software to identify and target cartel members. Turning data into viable, useable information is what these trained specialists do best. Their tactics include deep-diving into law enforcement and public databases to construct links between known and unknown cartel members and money conveyance actors, determining modes of transportation, and identifying trafficking patterns. Intelligence and information sharing is a critical component of the overall HIDTA strategy in targeting the cartel and in reducing the supply of drugs in our communities. The HIDTA Program mandates and establishes intelligence/investigative support centers in strategically placed areas across the country, specifically to create and maintain a communication infrastructure that can facilitate information-sharing among federal, state, local and tribal law enforcement agencies. These HIDTA intelligence support centers across the country follow the same model as the HIDTA drug task forces by commingling analysts from all regional state, local, federal and tribal law enforcement agencies in one place, working toward the common goal of dismantling drug trafficking and money laundering organizations. These centers contribute significant analytical resources targeting the on-going drug investigations not only in the HIDTA drug task forces, but also to all law enforcement agencies in their regions for the purpose of deconfliction and the in the sharing of information and resources.

HIDTAs across the country work diligently to utilize all ***technological resources*** available, to include, Title 3 wire intercepts targeting communication devices used by the cartel, monitoring of social media platforms, the use of specialized tools such as surveillance equipment, GPS trackers, body cameras, microphones, X-ray scanners (to identify drugs and currency secreted in hidden compartments), license plate reader (LPR) technology and others. In an age of rapidly developing technological changes, law enforcement is doing all it can to stay up-to-date with these evolving technological developments, but is increasingly finds itself “going dark” while applying traditional targeting of cartel communications that were so successful in the past. Today, drug law enforcement is having to focus more and more on the identification of “vulnerability points” in the cartel’ distribution and organizational structure to successfully gather critical evidence needed for the indictment and prosecution of higher-level members of these illicit organizations. To enhance these efforts, the HIDTA Program is also leveraging academics to help law enforcement better understand how to identify and target the vulnerabilities of criminal organizations.

Some Members of this committee have participated in previous briefings on law enforcement's critical issues and great challenges in obtaining vital and critical evidence from the communication platforms used by the cartel and their networks in communities throughout the U.S. The term "Going dark" has been identified as the problem and "Lawful Access" has been identified by all as the best solution for law enforcement. Our inability to access communication platforms, whether it be cellular telephones, social media platforms or special communication apps like WHATSUP, TREMA and SIGNAL are increasingly making law enforcement less efficient in prosecuting upper echelon members of the cartel, their network members operating in the U.S., and persons willing and knowingly distributing lethal doses of fentanyl in the U.S. (resulting in overdose deaths). Anything that this committee can do to make a positive impact on this issue would be greatly appreciated, and in turn would make our communities much safer than they are today.

Targeting the Money Laundering Operations of Cartel

17 of the 33 HIDTAs across the country have dedicated money laundering Task Force groups specifically targeting cartel money laundering operations. Many of the HIDTAs seated in major metropolitan areas have multiple money laundering Task Forces within their specific HIDTAs. All of the HIDTA Task Forces across the country, along with our law enforcement partners, target points of vulnerabilities in the distribution process when drug shipments are being repatriated back into U.S. currency. In 2020, the HIDTAs across the country seized \$827.7 million in cash from drug organizations, while seizing an additional \$176.5 million in other tangible property and assets.

The targeting of money laundering operations of the cartel is a complex and ever-evolving investigational opportunity for drug law enforcement across the country. Drug cartels are always seeking new opportunities and techniques to successfully move their drug proceeds from the destination countries back into the cartel's source country's control. The money laundering techniques used by the cartels are always changing. A good example of this was in 2010 when the Government of Mexico tightened restrictions on their internal banking laws, and the immediate reaction from the Mexico-based cartels was to diminish the overall amounts of bulk currency being transported back into Mexico, with a new focus of investing in U.S. commodities and real estate assets. That trend is no longer being observed, as the cartels have been able to circumvent the Mexico banking laws cited above. Over the past year, HIDTA has observed an increase in the amount of bulk currency cash being transported back into Mexico by the cartels. HIDTAs and our law enforcement partners have received intelligence about cartel drug proceeds being converted to cryptocurrency, but the recent volatility of cryptocurrency may have caused the cartels to refocus their attention away from this tactic as a reliable and stable tool for their money laundering activities. To give you a glimpse of the magnitude of U.S. currency being generated for the cartels, two of the most predominant Mexico based cartels are the Sinaloa and the Jalisco New Generation (CJNG) Cartels. DEA and intelligence sources indicate that the Sinaloa Cartel earns up to an estimated \$1 billion, and that the CJNG Cartel earns hundreds of millions of U.S. dollars annually.

The cartels money laundering operations are targeted by U.S. drug law enforcement in the traditional methods of inserting undercover operatives, posing as criminal enterprise "money launderers" to meet with cartel cell heads in various parts of the country, pick up large amounts of U.S. currency and then "launder" the currency through the banking system (or other methods dictated through undercover negotiations) back to financial accounts controlled by the cartels. At times, the undercover operatives are

also requested to make the drug-related proceeds of the cartels appear to be legitimized through the purchase of U.S. Assets, real estate. Law enforcement undercover operations will conduct these services for the cartels for a service fee that is determined by a negotiated percentage of the amount of currency being laundered. At times, the decision will be made in these currency pickups to successfully “launder” these funds and allow them to be received by cartel members, especially when the cartel is providing the undercover operation with smaller “test” run amount of U.S. currency to see if the operation is affiliated with law enforcement entities. When these funds are actually laundered by the undercover operation, the amount of valuable organizational intelligence received is of great benefit to law enforcement. The intelligence gleaned from these operations will greatly assist law enforcement in the seizure of additional drug currency shipments being laundered by the cartel in other money laundering activities, not necessarily involving the undercover operation.

HIDTA and its law enforcement partners have observed a new alarming trend for money laundering activities in the cartel’s newly formed partnerships with ethnic Chinese money laundering organizations (MLOs). These cartels have increasingly collaborated with Chinese elements in obtaining precursor chemicals from China to manufacture fentanyl in labs within Mexico, and the money laundering capabilities of moving the Cartel drug proceeds into the China based banking system have proven a natural fit. Moving the money in this direction also functions for other purposes such as in the purchase of precursor chemicals and China-made trade-based consumer goods and thereby to launder and legitimize cartel funds through the China banking system. U.S. drug law enforcement has also observed instances of Chinese nationals meeting with cartel members in the U.S. to pick up large amounts of drug currency to be laundered. U.S law enforcement has also experienced an increase in Asian males transporting large amounts of U.S. currency in tractor trailers to areas in northern California and other areas along the Southwest Border. One month ago, a tractor trailer left New York city with 4 Asian males in the truck (unusual for so many occupants in eighteen-wheeler). The truck was stopped in Mississippi and \$1.4 million dollars was found hidden in the truck. Also of interest is that intelligence has indicated that these U.S. Chinese operatives are picking up large quantities of U.S. dollars to be laundered for the cartels and these funds are being laundered in the China banking system with no additional service fees added to the amount of the drug currency received and being laundered.

The HIDTA Domestic Highway Enforcement (DHE) Program

Cartels are constantly moving shipments into and across the U.S. using various forms of distribution techniques, to include tractor trailers, vehicle conveyances, buses, trains, ships and shipping platforms to include the U.S. Postal service. The Domestic Highway Enforcement (DHE) information sharing platform is a national HIDTA initiative that provides unprecedented highway drug trafficking awareness and collaboration among federal, state, local and tribal law enforcement. The initiative has led to the significant disruption of dangerous drugs, gun trafficking, illicit proceeds, human trafficking, and other substantial criminal activities on and along U.S. transportation corridors. DHE leverages law enforcement information on drug trafficking with other smuggling modalities - air, maritime, rail, bus, and parcel - along with traffic safety resources to deny drug traffickers and other criminals the use of United States highways and other arterial routes.

The quantity of dangerous drugs and illicit currency intercepted along U.S. highways is staggering. Last year alone, thousands of pounds of fentanyl, cocaine, and methamphetamine were seized during traffic

stops on or near interstate highways. In the last 2 years there were over 25 separate traffic stop incidents where over \$1 million in bulk cash was recovered leading to HIDTA supported criminal investigations. The HIDTA DHE program incorporates an information sharing model for the traffic stop encounters that encourages the gathering, analysis, investigation, and sharing of criminal intelligence and threats to public safety.

DHE program coordinators, working with DHE HIDTA supported officers and analysts nationwide, observed a number of drug mule transportation tactic changes during the past couple of years. A drug trafficking organization will typically pay a driver between \$2000 and \$10,000 to transport bulk quantities of dangerous drugs across U.S highways. Drug mules have displayed increasing levels of aggressive driving behavior. Officers regularly encounter drug mules travelling at high speeds and many carry personal-use marijuana or methamphetamine, and are possibly impaired, while driving long distances. During a single week last year, 3 drug trafficking investigations began following car crashes along Interstate 80 in Wyoming, Utah and Iowa. The number of firearms encountered during traffic stops with bulk narcotics has also increased. Although, many drug traffickers use sophisticated concealment methods in passenger vehicles and trucks, during the past year officers also encountered increased seizures with limited or no concealment. As the HIDTA DHE program continues to grow and build partnerships across the nation, program leadership is actively engaging in activities to ensure a professional traffic safety foundation to stakeholder strategies, and most importantly in disrupting cartel activities in moving drug and drug related U.S. currency on the roads in the U.S.

New Emerging drug trafficking and distribution trends observed by HIDTA

The most significant observations from the HDTAs and our law enforcement partners have been in the recent change of the rise and growth of the two most predominant Mexico based drug cartel, the Sinaloa and the Jalisco New Generation (CJNG). I believe their growth and expansion can be attributed to these two cartels rising to become the largest producers and distributors of methamphetamine and fentanyl in Mexico. We have also received intelligence indicating these cartels are also producing Phencyclidine (PCP) in their labs to accommodate growing U.S. demands for the drug, especially among teens and gang members. The largest concentration of methamphetamine and fentanyl labs in Mexico are in Culiacan and Tamaulipas. These two cartels have strategically increased their relationships with China and India based precursor chemical brokers and malicious actors associated with China and India based chemical companies. U.S. law enforcement based in Mexico also reports Chinese nationals in Culiacan, Mexico working alongside cartel members assisting them in their illegitimate lab production sites.

Another alarming trend that law enforcement has not previously experienced before is in the observation of the cartels using social media apps to recruit persons to assist them in their day-to-day operations in the U.S. This is being observed at all stages of the cartel transportation and distribution activities. Recently in an interview, the DEA Administrator Anne Milgram said: “The cartels are harnessing the perfect drug trafficking tool: social media applications that are available on every smartphone. They are using these platforms to flood our country with fentanyl. The ease with which drug dealers can operate on social media and other popular smartphone apps is fueling our Nation’s unprecedented overdose epidemic”.

U.S. drug law enforcement is seeing less and less marijuana and even declining heroin seizures along the Southwest Border (SWB). This is directly attributed to the new focus and U.S demand for synthetic

fentanyl production. The cartels have realized the incredible profit margins and steady availability for fentanyl production for a drug that is not subject to weather, eradication efforts or geographical restrictions. U.S. law enforcement is experiencing unprecedented seizure rates of fentanyl powder and fake pills containing fentanyl in the U.S. that are increasing every year since 2018. This is especially alarming considering the increases in overdoses and overdose deaths due to fentanyl being experienced by emergency rooms across the country. To provide an understanding of the incredible profit margins for the cartels in their fentanyl production, imagine one kilogram of fentanyl powder (2.2 pounds) equals one million milligrams of fentanyl. A lethal dose of fentanyl equals 2 milligrams of fentanyl. The counterfeit pills being seized by law enforcement containing fentanyl average between 1 and 2 milligrams of fentanyl per pill. Pills seized by law enforcement containing more than 2 milligrams of fentanyl represent a probable overdose death. Additionally, when you consider that most of these counterfeit pills are being produced in rogue, pill press-operations with no medical standards for dosages, the likelihood of overdosing is increased exponentially. One kilogram of fentanyl could produce one million counterfeit pills with one milligram, 750,000 counterfeit pills containing 1.5 milligrams of fentanyl, or 500,000 pills containing 2 milligrams (lethal dose). Currently in Houston, Texas, a kilogram of fentanyl can be purchased for an average price of \$25,000 to \$30,000. This same kilogram of fentanyl in Culiacan could be purchased for an average price of \$13,500. Currently, the price for a fentanyl pill in Houston ranges from \$6.00 to \$65.00. Thus, an illicit investment of \$30,000 or less could result in a return of \$6,000,000 to \$32,500,000.

U.S. law enforcement is also seeing trends of fentanyl mixed with methamphetamine and cocaine as well. Methamphetamine and Cocaine seizures being seized by U.S. law enforcement are also increasing at alarming rates. Seizures of Methamphetamine and cocaine are also at all time highs by U.S. law enforcement. According to U.S. government estimates, Cocaine production in Colombia reached its highest levels in 2020. Cocaine seizures remain high in the coastal, northern border and SWB areas of the U.S. Customs and Border Protection (CBP) alone, who monitors our ports of entry into the U.S. reports 97,638 kilos of cocaine seized in FY 2021 compared to 58,000 in 2020.

Seizure levels of marijuana by U.S. law enforcement are decreasing rapidly each year. A cautionary note regarding seizures of marijuana originating from Mexico. The decreased seizure levels of bulk marijuana from Mexico should not be viewed as a lack of effort on the part of cartels to traffic the drug nor should we be swift to claim a victory in our efforts to stem the trafficking of marijuana in the United States. Sadly, marijuana is alive and thriving in America. Drug Trafficking Organizations, with origins in both domestic or international roots, now can operate in plain sight under the guise of a legalized market. These operations can include internet-based sales, establishing store front point of sales using a “straw owner” as a front person and even in the cultivation of large-scale marijuana plots on our public lands and national forest areas. Many of which have direct ties to organizations based in Mexico. The cartels are still involved in marijuana distribution in America, but now more under the guise of selling and distribution of both legal and illegal marijuana from legalized states.

Essentially, the HIDTA Program is successful because of the collaboration, resource allocation and partnerships generated by having federal, state, local and tribal law enforcement working together in drug law enforcement collaborations, focused solely on the dismantlement of the cartels wreaking havoc on our communities. Not previously mentioned in this statement is the collaboration between HIDTA and those in the drug treatment and prevention side, which has never been more aligned in mission and

coordination. In my many years of law enforcement experience, one thing is clearer to me than ever before, we cannot arrest our way out this problem, and the partnerships and innovative approaches between law enforcement and community leaders have never been so important. I am proud of how law enforcement has responded to the new techniques and challenges used by the cartels, but our ability to efficiently target cartel members and their surrogates will be the defining factor in reducing the violence and supply of drugs endangering the communities of America.

Thank you for allowing me this opportunity to testify before you today. I look forward to answering any questions.

Addenda: F. Mike McDaniel Bio

Map of 33 HIDTAs in the US

Year to Year Drug Seizure Charts along the SWB

United States Senate

Caucus on International Narcotics Control

March 2, 2022

Prepared Testimony of Lakshmi Kumar

Policy Director

Global Financial Integrity

Chairman Whitehouse, Co-Chair Grassley, and other members of the caucus, it is a privilege to testify before you today on the critical subject of the schemes utilized by cartels and other criminal actors to traffic narcotics and launder their illicit proceeds in a manner that is detrimental to the national security of the United States and the everyday well-being of U.S. citizens. I am immensely grateful for the invitation and the opportunity to join this esteemed panel.

I am here on behalf of Global Financial Integrity (GFI), a Washington, DC-based think tank focused on illicit financial flows, corruption, illicit trade, and money laundering. Through high-caliber analyses and fact-based advocacy, GFI works with partners to increase transparency in the global financial and trade system and find policy solutions address the harms inflicted by crimes including narcotics trafficking the value that financial transparency and anti-money laundering can play in acting as an effective deterrent.

GFI has worked tirelessly for a decade advocating and promoting the importance of beneficial ownership and financial transparency measures in addressing protecting the U.S. financial system from the negative impacts of illicit and criminal activities including narcotics trafficking. GFI's following publications may be of particular interest to this caucus:

- [Narcotics Proceeds in the Western Hemisphere: Analysis of Narcotics related Illicit Financial Flows Between the United States, Mexico and Colombia](#)
- [Financial Crime in Latin America and the Caribbean: Understanding Country Challenges and Designing Effective Technical Responses](#)

- [Acres of Money Laundering: Why U.S. Real Estate is a Kleptocrat's Dream](#)
- [Private Investments, Public Harm: How the Opacity of the Massive U.S. Private Investment Industry Fuels Corruption and Threatens National Security](#)
- [The Future of Beneficial Ownership in the United States: Trade, Transportation, and National Security Implications](#)

Main Methodologies Used to Traffic Narcotics

GFI in 2021 conducted a full review and analysis of financial crimes activity across all 33 countries in the Latin America and Caribbean (LAC) region and on the issue of narcotics trafficking identified the following methods through research and expert interview. Full details of the findings are enclosed in the report itself.¹

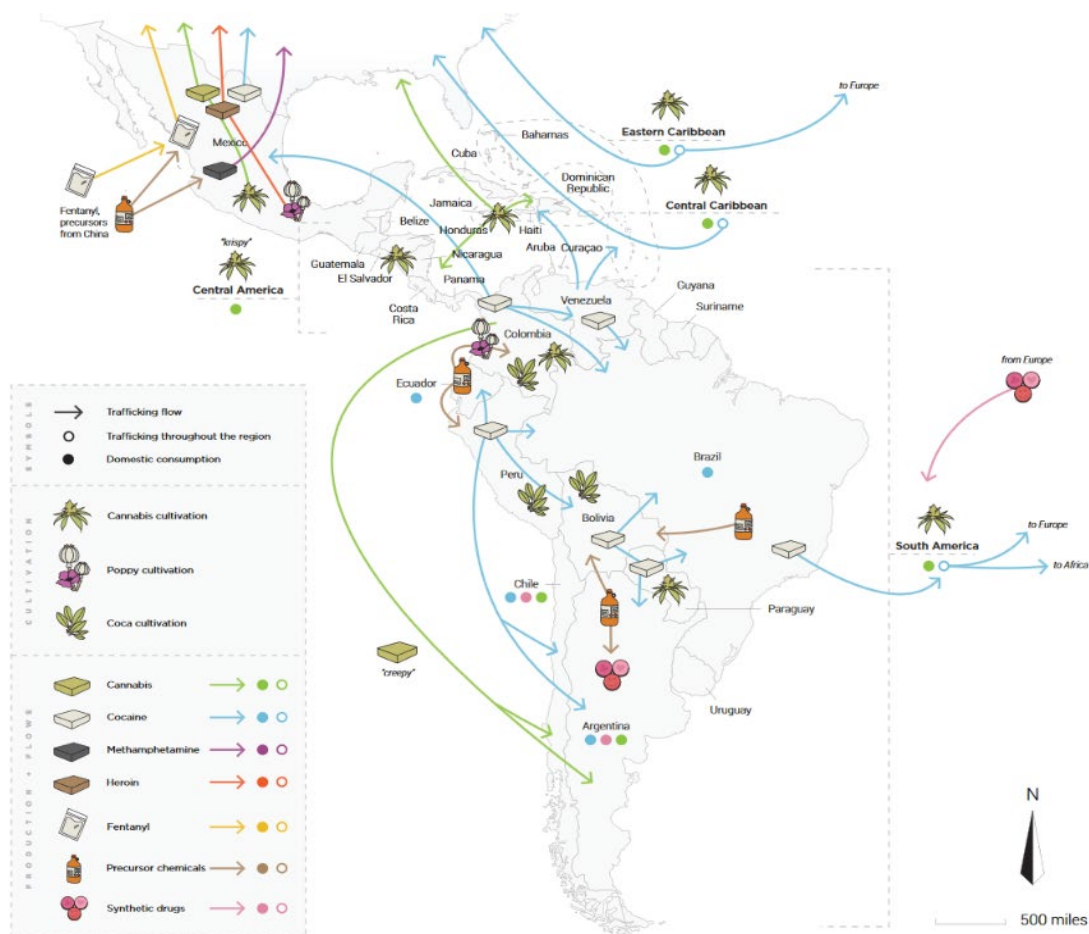
GFI found that “The use of cargo containers and international trade to move cocaine is very popular throughout the LAC region as well as to final destination markets. Not only do containers allow traffickers to hide the narcotics in the chaos that is international trade, but they are also able to ship significant quantities. One expert from Costa Rica noted that, in regard to cocaine trafficking through the country, in the past they used to talk about kilos of cocaine, but now, due to trafficking via containers, they’re talking about tons. Countries have seized cocaine commingled with and/or disguised as charcoal, furniture, pineapples, and bananas, among other goods. In some countries, such as Belize, the use of private planes is the primary method used to traffic drugs north from Colombia and Venezuela; the planes are also used to smuggle cash. Other countries such as Peru previously saw air as a popular transit mode, however airbridge interdiction programs frequently pushed traffickers towards maritime routes. One expert noted that with the reduction of commercial flights as well as closures of land border crossings during the pandemic, DTOs began to rely more on the use of small planes to transport drugs inter- and intra-regionally. The fishing sector as well as fishing vessels are another common method for smuggling drugs. Major Mexican DTOs, including the Sinaloa Cartel and CJNG, are reportedly working with local gangs in southern Mexican states, who, posing as fishing cooperatives, retrieve large shipments of cocaine from Colombia and Ecuador that have been left far out at sea, primarily in the Pacific Ocean but also in the Caribbean. Illegal, unreported, and unregulated fishing has allegedly pushed Peruvian fishermen into smuggling, where, according to an expert, they can earn as much as three months’ fishing pay for transporting one kilo of cocaine. A Peruvian expert stated that the cocaine is moved from the countryside via land and by river using small boats to small fishing ports; the drugs are transferred from one boat to another, and finally to the “mothership” located perhaps 200 miles from shore. “Narco-sub” have been a common method of moving drugs from Colombia and its neighboring countries to Central America and the U.S. Overall, COVID-19 did not have a remarkable impact on drug trafficking in the region. One expert noted that while the price of coca leaf in Peru and Colombia collapsed, because there was a sufficient stockpile of cocaine, including in Ecuador and Guatemala, there were no spikes in prices down the supply chain. They reported there was such a significant backlog of warehoused cocaine that it was rotting because it wasn’t being moved fast enough. Additionally, while access to formal transit such as commercial flights, maritime shipping,

¹ [Financial Crime in Latin America and the Caribbean: Understanding Country Challenges and Designing Effective Technical Responses](#)

<https://secureservercdn.net/50.62.198.97/34n.8bd.myftpupload.com/wp-content/uploads/2021/10/GFI-LAC-Financial-Crime-Report.pdf?time=1646167254>

and legal border crossings may have been interrupted and/or delayed, informal transit using private planes, vessels and informal border crossings were not significantly affected.”²

Graphic 1: Primary Drug Jurisdictions and Routes in Latin America and the Caribbean³



Main Methodologies to Launder Proceeds

-Bulk Cash Smuggling and Trade Based Money Laundering

² [Financial Crime in Latin America and the Caribbean: Understanding Country Challenges and Designing Effective Technical Responses](https://secureservercdn.net/50.62.198.97/34n.8bd.myftpupload.com/wp-content/uploads/2021/10/GFI-LAC-Financial-Crime-Report.pdf?time=1646167254), pgs 138-139

<https://secureservercdn.net/50.62.198.97/34n.8bd.myftpupload.com/wp-content/uploads/2021/10/GFI-LAC-Financial-Crime-Report.pdf?time=1646167254>

³ Ibid p.140

GFI in a research analysis conducted for Congress analyzed the question of the main methodologies utilized to shift narcotics proceeds from one jurisdiction to another. The information below is from the main report and detailed information including estimates of the market is found within the report. “From a review of GFI interviews and sources, bulk-cash smuggling and trade-based money laundering (TBML) emerged as the two primary methods used to shift drug proceeds from one jurisdiction to another. Bulk-cash smuggling, which involves the physical transportation of large amounts of cash, often across international borders, is used because the “physical transportation of cash distances the criminal proceeds from the predicate offense that generated them, and breaks audit trails.” Eventually, the cash will likely be converted into local currency and/or deposited into a financial institution. At this point, countries will have an opportunity to control, supervise and limit the transaction through currency reports or foreign exchange limits. However, the robustness and effectiveness of these controls vary by institution and by country. Among the expert interviews conducted and open-source reports analyzed, there is some debate as to the prevalence of bulk-cash smuggling along the US-Mexico border, with differences in perspectives between the United States and Mexico. According to a recent report by the US Department of the Treasury, “bulk-cash smuggling into and out of the United States remains one of the predominant ways that Mexican drug cartels move illicit drug proceeds across the US southwest border.” This concern with bulk-cash smuggling is echoed in other US government documents and appears in references to Colombia as well. However, Mexico’s 2016 National Risk Assessment states that there has been a “significant decrease in the flow of US dollars in cash within the financial sector since June 2010, when restrictions were put in place...therefore, it must be concluded that bulk-cash smuggling along Mexico’s northern border has a LOW probability rate.” This view was echoed in expert interviews conducted by GFI with Mexican sources for this report. Mexico’s 2010 restrictions most notably capped the monthly deposit limit for US dollars at US\$4,000 for individual account holders at financial institutions and substantially reduced cash currency exchange for non-account holders, capped at US\$1,500 per month. At the same time, there have been fewer reports of bulk-cash seizures along the US-Mexico border. However, US government and US experts remain concerned with the prevalence of bulk-cash smuggling, noting that the decrease in seizures “does not necessarily mean that there is less bulk-cash transiting the border,” especially as its final destination may be a country other than Mexico. Another primary system used is TBML, occurring when proceeds from an illicit activity are disguised as legitimate international trade transactions as a way to move funds across borders and/or launder them into the formal economy. Many of the methods used in TBML fall within what is known as trade misinvoicing: over- or under-invoicing shipments, falsely duplicating shipments or invoices, or falsely declaring the contents, or quality of a shipment. This process is used by illicit actors to move money or value under the pretext of legitimate trade transactions. It is very difficult for financial institutions, or traditional law enforcement agencies, to detect the problem, as it occurs through ports, and not through the financial system. Moreover, only 20 percent of international trade involves trade financing, where financial institutions (FIs) would 1) be aware that the payment/transaction was related to trade and 2) have the opportunity to review the associated trade documents. The majority of international trade (80 percent) is conducted through open-account transactions, where FIs see a transaction (i.e., payment), but do not necessarily know that it is related to a trade transaction, nor receive supporting documentation.”⁴

⁴ [Narcotics Proceeds in the Western Hemisphere: Analysis of Narcotics related Illicit Financial Flows Between the United States, Mexico and Colombia](https://secureservercdn.net/50.62.198.97/34n.8bd.myftpupload.com/wp-content/uploads/2020/09/GFI-WHDPC-Narcotics-IFF-Final-pdf.pdf?time=1646167437)

Table 1: Methods Used and Prevalence, According to Expert Interviews and Official Sources⁵

Overall	US Perspective: by US Experts and US Official Sources	LAC Perspective: By Mexican and Colombian Experts and Official Sources
<ul style="list-style-type: none"> Bulk-cash smuggling (18%) TBML (18%) 	<ul style="list-style-type: none"> Bulk-cash smuggling (24%) TBML (24%) 	<ul style="list-style-type: none"> TBML (13%) Real estate (13%)
<ul style="list-style-type: none"> Funnel accounts (9%) Real estate (7%) 	<ul style="list-style-type: none"> Funnel accounts (12%) 	<ul style="list-style-type: none"> Bulk cash smuggling (10%) Corporate structures (10%)
<ul style="list-style-type: none"> Corporate structures (6%) Banking system, Including correspondent banking (4%) 	<ul style="list-style-type: none"> Professional, third party launderers (6%) Real estate (6%) Structured bank deposits (6%) 	<ul style="list-style-type: none"> Bad gatekeepers (7%) Banking system, including correspondent banking (7%) Car sales (7%) Non-financial institutions (7%)

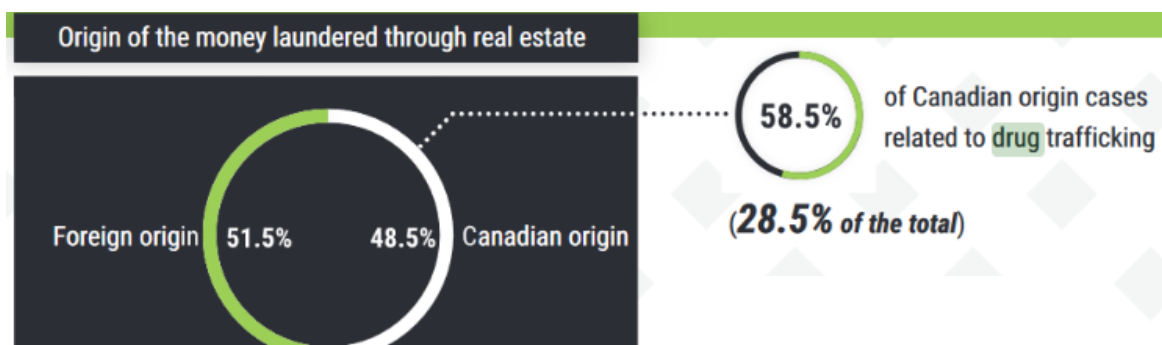
Source: Mapping of methodologies as mentioned in expert interviews (13) with Global Financial Integrity and in publicly available official reports (11) from the United States, Colombia, Mexico and the Organization of American States.

-Real Estate

GFI in 2021 analyzed the scale of money laundering the U.S. real estate sector based on reported cases over a 5-year report. GFI's analysis found that at a minimum, from cases reported in the last five years, more than US\$2.3 billion has been laundered through U.S real estate, including millions more through other alternate assets like art, jewelry, and yachts. The cases and the report exposed the underbelly of professional money laundering networks, where the very individuals who are meant to safeguard the financial system instead are given carte blanche over laws and ethical codes, to help corrupt politicians, businessmen, drug traffickers, war criminals, and kleptocrats hide their ill-gotten wealth in real estate. GFI's study which covered cases in the U.S., U.K., and Canada also found that in Canada 58.5% of all Canadian origin cases of real estate money laundering derived their proceeds from drug trafficking.⁶

⁵ [Narcotics Proceeds in the Western Hemisphere: Analysis of Narcotics related Illicit Financial Flows Between the United States, Mexico and Colombia](https://securservercdn.net/50.62.198.97/34n.8bd.myftpupload.com/wp-content/uploads/2020/09/GFI-WHDPC-Narcotics-IFF-Final-pdf.pdf?time=1646167437)

⁶ Acres of Money Laundering: Why U.S. Real Estate is a Kleptocrats Dream
<https://securservercdn.net/45.40.149.159/34n.8bd.myftpupload.com/wp-content/uploads/2021/08/Acres-of-Money-Laundering-2021.pdf?time=1628772631>



In the U.S. as well, there are several high-profile cases of proceeds tied to cartels or drug trafficking being laundered through real estate. These examples do not comprise the entire universe of cases but are noteworthy to show the ease through which it is easy for criminal actors associated or benefits from drug trafficking to hide and grow their money in real estate.

Case 1: Former Veracruz governor Javier Duarte, who in 2016 was accused of embezzling US\$26 million as well as fostering ties with drug cartels, acquired approximately 90 properties in Mexico, Spain, and the U.S. between 2006 and 2014. To purchase real estate in the U.S., Duarte used lawyers and business associates as front men to set up a complex network of shell companies in Texas, Delaware, and Florida.³⁵ His empire included commercial buildings in Florida, a US\$7.6 million Miami mansion purchased all-cash, and around 30 Miami homes that were sold and bought several times to conceal the origin of the money and ownership of the property. He also owns properties in locations not covered by the GTOs, including Scottsdale, AZ and Houston, TX.⁷

Case 2: In 2021, former governor of Tamaulipas Tomas Yarrington pled guilty to laundering drug cartel bribes through Texas real estate, including in non-GTO areas like Port Isobel and South Padre Island. Between 1998 and 2012, he used shell companies registered in the names of associates to secure millions of dollars in loans to purchase these properties as well as to pay for maintenance and repair fees.⁸

Case 3: While accused of taking bribes from El Chapo's Sinaloa Cartel, Mexico's former security minister Genaro Luna Garcia acquired a US\$3.3 million home in Golden Beach, FL, a commercial property in Aventura, FL, various condos worth US\$5 million, a luxury yacht as well as a permanent residence between 2012 and 2013. The LLCs used to purchase the properties were registered under the names of his lawyer and business associates.⁹

Case 4: The leader of an international money laundering and narcotics trafficking organization allegedly used a Las Vegas real estate broker to launder some of the US\$250 million in drug money from Mexican drug cartels in 2015 and 2016. Together they recruited people to act as 'administrators' of shell companies that were used to acquire Las Vegas residential properties. After the purchase, the homes were renovated and resold – leaving a clean profit.¹⁰

⁷ Ibid at p.30

⁸ Ibid at p.31

⁹ Ibid.

¹⁰ Ibid at p.49

Case 5: Sefira Capital LLC, a Florida-based boutique investment company, raised over US\$100 million in capital to invest in real estate projects. From 2016 to 2019, Sefira and its subsidiaries, which own high-end commercial and residential real estate, received millions of dollars in criminal proceeds from drug trafficking organizations that was laundered through the Black-Market Peso Exchange. As part of its undercover investigations, the Drug Enforcement Administration (DEA) transferred narcotics proceeds worth millions between 2018 and 2019 at the instruction of money-laundering brokers. In these and other similar investments, Sefira accepted the funds without inquiring as to the source of ownership of these accounts or funds. Likewise, Sefira ignored discrepancies between the purported investment amount and the actual amount Sefira received, and between the identities of the investors and the entities sending the investments to Sefira.¹¹

Recommendations

Congress can play a meaningful role in delivering those resources by taking the following steps.

A. Strengthen Beneficial Ownership:

- i. FinCEN should continue to prioritize the implementation of the Corporate Transparency Act and the creation of a robust beneficial ownership registry.
- ii. Collecting beneficial ownership information should be extended to all legal forms and arrangements including trusts and to assets such as art, real estate, aircrafts, and boats that are owned through a foreign or domestic legal entity/ arrangement.
- iii. The U.S. should champion the establishment of effective beneficial ownership registries internationally including prioritizing the creation of beneficial ownership registers for states that act as high-risk source and transit countries for narcotics trafficking and laundering.
- iv. The U.S. should (allowing for an appropriate time for implementation) ban any cargo or container ship, tanker or fishing vehicle from entering any U.S. port without first providing beneficial ownership information to Customs and Border Protection

B. FinCEN:

- i. Ensure that FinCEN has the requisite budget necessary to meet the illicit financial flow challenges facing the U.S. trade and financial system.
- ii. Create within FinCEN a National Anti-Money Laundering Academy (NALMA) to establish a credentialled cadre of financial intelligence professionals in the U.S. government, law enforcement, among federal and state prosecutors, and financial institution compliance officers
- iii. Create in FinCEN a National Anti-Money Laundering Data Center (NALDC) for advanced data collection, synthesis, analysis, and distribution to law enforcement for AML activity.
- iv. Establish a “Manhattan Project” to identify, develop and operationalize state of the art technologies needed to fulfil the technology needs of a NALDC.

¹¹ Ibid at p.56

C. Address Trade-based Money Laundering:

- i. Establish within FinCEN a permanent “TBML Team” solely focused on studying and identifying TBML threats and conveying that information to appropriate law enforcement.
- ii. Advocate for international standards to be created and implemented on TBML similar to AML/CFT. Current FATF 40 recommendations are not fit for purpose to address TBML schemes and only apply to AML.
- iii. Require the exchange of trade transaction information between partner countries in a mutually compatible data format. Expand this subsequently to also include the beneficial ownership information of either party to the trade transaction.
- iv. Conduct awareness raising and outreach programs on the vulnerabilities of TBML to sanctions evasion and create a relevant set of red flag indicators highlighting the risks of free zones and vulnerable sectors like oil, gold, dual use technologies etc.

D. Create Comprehensive Regulations to Address Money Laundering in the Real estate sector:

GFI recommends that any proposed rule should at a minimum remedy the shortcomings of the GTOs and include the following elements:

- i. A permanent and nationwide regime;
- ii. No monetary reporting threshold for transactions;
Application to both legal entities and natural persons;
- iii. A cascading reporting obligation covering title companies, escrow agents, attorneys and real estate agents;
- iv. A requirement to submit key information on both the buyer and seller, including on beneficial ownership as defined under the Corporate Transparency Act, source of funds, and PEP identification.

To strengthen this proposed rule, GFI recommends that FinCEN takes the following key issues in consideration.

- i. **A cascading reporting rule accounts for evasion tactics by money launderers:** Each U.S. state has its own laws and customs regulating the real estate sector. A rule that would only cover one type of real estate professional would therefore provide money launderers with an easy evasion tactic to exploit. Instead, FinCEN should adopt a reporting obligation for multiple real estate professionals in a cascading order to ensure the requirement falls on at least one U.S.-based entity involved in the transaction.
- ii. **The rule should cover changes of ownership that occur without a sale:** The current real estate GTO defines ‘Covered Transaction’ only as purchases of residential real property by a legal entity. However, numerous cases of real estate money laundering simply involve the transfer of ownership or creation of equitable interest in the property without an actual sale. FinCEN should expand the types of

transactions covered under any new rule to include direct/indirect transfers of ownership or creation of equitable interest in the property.

- iii. **The rule should cover transactions by trusts:** An increasing proportion of housing is now owned by legal entities and arrangements, including trusts. In cities like LA, 23% of rental units are owned by trusts. The GTOs failed to address the ownership risks associated with trusts, and both foreign and some domestic family trusts are excluded from the purview of the Corporate Transparency Act. Yet these types of legal arrangements are used by PEPs to purchase real estate. GFI therefore recommends that transactions by all different classes of legal entities and legal arrangements be included in any prospective rule.
- iv. **FinCEN should provide a usable definition of ‘residential’ and ‘commercial’ real estate:** Under the GTOs, FinCEN clarified the term ‘residential real property’ to mean ‘property designed principally for the occupancy of from one to four families.’ However, there appears to be a fair amount of confusion within the industry as to what is covered by this classification. For instance, it is unclear if the purchase by a corporate entity of 100 ‘one to four family’ property units within one building should be treated as residential or commercial. FinCEN should clarify and restrict the definition of ‘residential real estate’ to cover only individual purchases of residential property. Commercial real estate, on the other hand, should cover properties acquired with the purpose of generating income, including the (mass) acquisition of apartments, nursing homes and student dwellings.
- v. **FinCEN should not limit its focus to ‘non-financed’ transactions:** The GTOs currently are restricted to all-cash transactions. FinCEN is now looking to regulate ‘non-financed transactions’, but GFI recommends that this term is not simply treated as a synonym for ‘all-cash’ transactions. Financing of real estate transactions does not only happen through conventional mortgages provided by BSA-regulated financial institutions. It also includes financing provided by private lenders, foreign financial institutions, online marketplaces like Zillow, private equity and many more which are not subject to AML/CFT requirements. Therefore, FinCEN should define the term ‘non-financed’ to include financing mechanisms that are not subject to robust due diligence and reporting mechanisms.

E. Gatekeeper Regulation

- i. Pooled Investment vehicles: FinCEN should issue rules that require investment advisers to carry out customer due diligence including enhanced customer due diligence on all prospective investors.
- ii. Require gatekeeper professions including accountants, lawyers, real estate agents to meet the reporting requirements of the Bank Secrecy Act more fully. For lawyers, these CDD requirements can be limited to transactions that do not breach attorney-client privilege.

United States Senate

Caucus on International Narcotics Control

March 2, 2022

Prepared Testimony of Erica Hanichak
Government Affairs Director

Financial Accountability and Transparency (FACT) Coalition

Chairman Whitehouse, Co-Chair Grassley, and other members of the caucus – thank you for holding this important hearing.

I am here on behalf of the FACT Coalition and its more than 100 civil society, business, and labor members to discuss bipartisan reforms that will give law enforcement and national security officials additional tools to investigate and counter drug trafficking organizations and the corruption they perpetuate.

As I will describe, it is imperative that Congress fulfill the full scope of its oversight, appropriations, and legislative roles to crack down on the financial secrecy that enables the transnational drug trade.

Though beyond the scope of this hearing's discussion, I would also note that as the Administration considers its immediate and rightful response to the Russian assault on Ukraine, progress on the structural reforms recommended in this testimony will likewise be imperative to ensuring the effectiveness of U.S. economic tools like sanctions. Happy to discuss further during questions.

U.S. Financial Secrecy Fuels Illicit Narcotics Trafficking

While drug trafficking organizations often choose to stand up a base of operations in countries with weakened governance systems – and further serve to erode those systems – the same

usually isn't true for the organization's financial infrastructure. Instead, drug trafficking organizations frequently offshore the proceeds of crime and corruption through and into rule-of-law jurisdictions, like the United States, to shield their gains behind legal but opaque financial vehicles. Anonymized through these vehicles, illicit profits "safely" can be cleaned and grown beyond the view of both rivals and law enforcement.

In December, Treasury Secretary Janet Yellen stated plainly that, likely, "...right now, the best place to hide and launder ill-gotten gains is actually the United States."¹ Civil society experts agree: for several years, the United States has ranked near the top of the Tax Justice Network Financial Secrecy Index as one of the most secretive jurisdictions in the world.²

As the inaugural 2021 U.S. Strategy to Counter Corruption noted, U.S. financial secrecy poses real dangers to average Americans, undermining public health, public safety, and national security.³

There is mounting evidence that drug traffickers and the corrupt officials they work with or finance are able to weaponize flaws in the U.S. financial and legal systems for their own financial gain. I will now address examples of the financial secrecy vehicles drug traffickers leverage to engage in and protect profits from their operations, including: anonymous shell entities, private investment vehicles, and U.S. real estate. These abuses also demonstrate the susceptibility and critical role of certain "gatekeeper" industries, as it relates to taking advantage of the U.S. legal and financial systems.

Anonymous U.S. Shell Entities

Anonymous shell entities capable of being formed or otherwise investing or doing business in the U.S. pose one of the biggest vulnerabilities to the U.S. financial system. According to a 2019 analysis by FACT member Global Financial Integrity, more personal information is needed to obtain a library card in all 50 states than to establish a legal entity that can be used to facilitate drug trafficking, fraud, money laundering, and corruption.⁴

Drug trafficking organizations frequently avail themselves of the secrecy of U.S. shell entities. Consider the following examples:

¹ U.S. Treasury Department, "Remarks by Secretary of the Treasury Janet L. Yellen at the Summit for Democracy," December 9, 2021, <https://home.treasury.gov/news/press-releases/jy0524>.

² Tax Justice Network, "2020 Financial Secrecy Index," February 2020, <https://fsi.taxjustice.net/en/>.

³ White House, "U.S. Strategy on Countering Corruption," December 2021, <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>.

⁴ Global Financial Integrity, "The Library Card Project: The Ease of Forming Anonymous Companies in the United States," March 2019, <https://gfinetegrity.org/report/the-library-card-project/>.

- Just last month, New York-based money launderer Da Ying Sze pled guilty to coordinating a \$653 million conspiracy to launder the proceeds of narcotics through bank accounts attached to shell companies at institutions in New York, New Jersey and Pennsylvania, and remitted those proceeds to China, Hong Kong, and elsewhere.⁵
- In 2019, a senior FBI official testified in the Senate that U.S. anonymous entities made it difficult to prosecute members of Los Zetas – the Trevino-Morales Brothers – who obscured millions of dollars in illicit proceeds from one of Mexico’s most notorious cartels, through Oklahoma horse ranches and horse races bought and organized via the brothers’ anonymously owned shell companies.⁶
- In the 2018 National Money Laundering Risk Assessment, the U.S. Department of Treasury wrote that, “The nature of synthetic drug trafficking, and associated financial flows, has changed with the rise of China as a supplier of fentanyl and its analogues and precursors. China is the primary source of fentanyl and fentanyl analogues.” The Assessment noted that the U.S. Drug Enforcement Agency determined there is an Asian version of the Black Market Peso Exchange “with goods being exported to China by U.S. front companies as payment for drugs.”
- The 2016 report by FACT member Fair Share titled “Anonymity Overdose” details cases in which opioid traffickers used companies with hidden owners to launder money, including the example of “Kingsley Iyare Osemwengie and his associates [who] were found to use call girls and couriers to transport oxycodone, and then move profits through an anonymous shell company aptly named High Profit Investments LLC.”⁷

Further, U.S. anonymous entities are a favored tool of certain officials around the world looking to stash away the proceeds of corruption. A report commissioned by the World Bank and UN Office on Drugs and Crime (UNODC) found that anonymous companies were used to hide the

⁵ Department of Justice Press Release, “Queens Man Admits Orchestrating \$653 Million Money Laundering Conspiracy, Operating Unlicensed Money Transmitting Business, and Bribing Bank Employees,” February 22, 2022, <https://www.justice.gov/usao-nj/pr/queens-man-admits-orchestrating-653-million-money-laundering-conspiracy-operating>.

⁶ Federal Bureau of Investigation, “Combating Illicit Financing by Anonymous Shell Companies,” Testimony Before the Senate Banking, Housing, and Urban Affairs Committee, May 2019, <https://www.fbi.gov/news/testimony/combating-illicit-financing-by-anonymous-shell-companies>. See also Valerie Patriarca and Andrea Day, “How a Mexican drug cartel hid millions behind a horse farm,” CNBC, June 12, 2014, <https://www.cnbc.com/2014/06/12/how-a-mexican-drug-cartel-hid-millions-behind-a-horse-farm.html>.

⁷ Fair Share and John Cassara, “Anonymity Overdose,” August 2016, https://www.fairshareonline.org/sites/default/files/AnonymityOverdose_Aug1_2016.pdf.

proceeds of corruption in 85 percent of the grand corruption cases reviewed, with U.S. entities being the most common.⁸

U.S. Private Investment Industry

The \$11 trillion U.S. private investment industry is large, opaque, and complex, making it the ideal destination for drug traffickers, corrupt officials, and rogue states alike to anonymously invest illicit proceeds. In July 2020, a leaked FBI intelligence bulletin revealed that the FBI believed with “high-confidence” that the U.S. private investment fund industry was being used to launder money.⁹ The assessment concluded that hedge funds, private equity funds, and other types of private placements of funds were being utilized to move illicit proceeds,¹⁰ and referred back to a 2019 FBI report where it likewise concluded criminal actors were “very likely” to launder proceeds from fraud schemes through “fraudulent hedge funds and private equity firms.”¹¹

In one such narcotics case mentioned in the FBI memo, Mexican drug cartels in Los Angeles and Orange Counties were alleged to have used hedge funds to launder \$1 million a week, and then allegedly withdrew the money to purchase gold, a commodity commonly used by organized crime and drug cartels to move money across international lines.¹²

In another case, Sefira Capital LLC – a boutique investment company in Florida – invested more than US\$100 million in high-end commercial and residential real estate projects across the United States, after allegedly receiving millions of dollars in criminal proceeds from “investors” who were actually drug trafficking organizations laundering funds through the Black Market Peso Exchange.¹³

U.S. Real Estate Sector

⁸ Emile van der Does de Willebois, et. al, “The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It,” World Bank Stolen Assets Recovery Initiative and UN Office on Drugs and Crime, 2011, https://www.unodc.org/documents/congress/background-information/Corruption/Puppet_Masters.pdf.

⁹ FACT Coalition, Global Financial Integrity, and Transparency International-US Office, “Private Investments, Public Harm: How the Opacity of the Massive U.S. Private Investment Industry Fuels Corruption and Threatens National Security,” December 2, 2021, <https://thefactcoalition.org/report/private-investments-public-harm/>. See also Timothy Lloyd, “FBI concerned over laundering risks in private equity, hedge funds - leaked document,” Reuters, July 14, 2020, <https://www.reuters.com/article/bc-finreg-fbi-laundering-private-equity/fbi-concerned-over-laundering-risks-in-private-equity-hedge-funds-leaked-document-idUSKCN24F1TP>

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

¹³ Department of Justice Press Release, “Acting Manhattan U.S. Attorney Announces Settlement Of Civil Forfeiture Claims Against Over \$50 Million Laundered Through Black Market Peso Exchange,” January 12, 2021, <https://www.justice.gov/usao-sdny/pr/acting-manhattanus-attorney-announcessettlement-civil-forfeiture-claimsagainst-over>.

As shown by many high-profile cases over the last several years, money laundering through U.S. \$50 trillion real estate has allowed drug trafficking organizations and the officials they corrupt to park the proceeds of narcotics trafficking and corruption safely in U.S. real estate. A recent report by Global Financial Integrity found that more than \$2.3 billion was laundered through U.S. real estate in cases reported between 2015 and 2020.¹⁴ This is likely a just fraction of the total sum of illicit funds moving through U.S. real estate.

In one such case, A Las Vegas real estate broker laundered up to \$250 million in illegal profits for Mexican cartels between 2015-2016 by purchasing and flipping residential real estate properties in Nevada.¹⁵

In another, a governor of Mexico's Veracruz state accused of embezzling \$26 million and building close ties to narcotraffickers acquired multi-million dollar residential and commercial real estate properties in Florida, Arizona, and Texas via anonymous U.S. shell companies.¹⁶

Perhaps most evocatively, investigative reports into the 2021 Surfside Condo collapse, which killed 98 people, uncovered evidence suggesting the condos were owned by cocaine traffickers working for the Falcon and Magluta empire who allowed the condo building to fall into disrepair.¹⁷

Real estate money laundering both undermines public safety and puts a strain on housing markets in vulnerable communities. Increasing oversight in the U.S. real estate sector may have further positive impacts to help to increase the availability of housing and to protect residents that could otherwise be subjected to absentee or capricious landlords.¹⁸

Gatekeeper Professions

¹⁴ Lakshmi Kumar and Kaisa de Bel, "Acres of Money Laundering: Why U.S. Real Estate is a Kleptocrat's Dream," Global Financial Integrity, August 2021,

<https://gfin integrity.org/report/acres-of-money-laundering-why-u-s-real-estate-is-a-kleptocrats-dream/>.

¹⁵ United States of America v. Luis Eduardo Rodriguez, Indictment, June 28, 2018, <https://www.justice.gov/usao-sdny/press-release/file/1077121/download>.

¹⁶ Mexico Daily News, "Duarte and his wife built a real estate empire with more than 90 homes," September 18, 2018, <https://mexiconewsdaily.com/news/duarte-and-his-wife-built-a-realestate-empire/>.

¹⁷ Chris Davis, "The Backstory: Long before the Champlain Towers collapse, there was money laundering. Here's how we uncovered it." USA Today, October 22, 2021, <https://www.usatoday.com/story/opinion/2021/10/22/there-was-money-laundering-surfside-heres-how-we-uncovered-it/8532276002/>

¹⁸ Letter led by California Reinvestment Coalition and signed by 12 housing groups, in response to the Financial Crimes Enforcement Network Advanced Notice of Proposed Rulemaking on Real Estate, February 21, 2022, <https://www.regulations.gov/comment/FINCEN-2021-0007-0126>.

Finally, drug trafficking organizations gain access to the U.S. financial system usually with help from professional gatekeepers like accountants, lawyers, corporate formation agents, art dealers, and others.

In a 2014 study by academics at the University of Texas-Austin, Brigham Young University, and Griffith University, researchers posed as drug traffickers, terrorist organizations, and other “red flag” entities to assess the culture around U.S. anti-money laundering safeguards.¹⁹ In one interaction, a Florida corporate service provider responded, “[Y]our stated purpose could well be a front for funding terrorism...I wouldn’t even consider doing that for less [than] 5k a month...If you are working with less than serious money, don’t waste anybody’s time here.”²⁰

Drug trafficking organizations could access the U.S. financial system with similar ease, and these risks permeate sectors. For instance, in 2021, a Dallas-area lawyer, Rayshun Jackson, pled guilty to federal money laundering charges after laundering money for DEA agents as part of an undercover operation, in which he moved nearly \$400,000 through anonymous shell companies into undercover DEA accounts. An FBI account noted that he was praised by his affiliates for being “...a thug, he’s just got a law degree.”²¹

These gatekeepers to the U.S. financial system by and large have no requirement to “know their customer” or fulfill any other anti-money laundering obligations. The United States is in the last 10 percent of countries that have not taken the step of requiring non-financial business professionals to conduct anti-money laundering due diligence and related reporting.²²

Recommendations

It is imperative that Congress tackle financial secrecy head on to deny the transnational narcotics trade any foothold in the U.S. financial system. As the U.S. Commission on Combating Synthetic Opioid Trafficking concluded in its final report released last month that, “Other additional prosecutorial and investigatory resources will be needed to prioritize

¹⁹ Shima Baradan, Michael Findley, Daniel Nielsen, and Jason Sharman, “Funding Terror,” University of Pennsylvania Law Review, February 2014, <https://www.jstor.org/stable/24247862>.

²⁰ *Ibid.*

²¹ Department of Justice Press Release, “Dallas Attorney Charged in Narcotics Money Laundering Scheme,” April 16, 2021, <https://www.justice.gov/usao-ndtx/pr/dallas-attorney-charged-narcotics-money-laundering-scheme>. See also Patrick Strickland, “Dallas Attorney Rayshun Jackson Pleads Guilty on Federal Money Laundering Charge,” Dallas Observer, October 2021, <https://www.dallasobserver.com/news/dallas-attorney-rayshun-jackson-pleads-guilty-on-federal-money-laundering-charge-12518418>.

²² Josh Rudolph, “Regulating the Enablers,” The German Marshall Fund’s Alliance for Securing Democracy, September 21, 2021, <https://securingdemocracy.gmfus.org/regulating-the-enablers/>.

money-laundering cases, including cases that involve false businesses and real estate purchases.”²³

Congress can play a meaningful role in delivering those resources by taking the following steps.

Urge Timely and Robust Implementation of the Bipartisan Corporate Transparency Act, Focusing on Strong Disclosures and Access Provisions

Last January, Congress passed the bipartisan Corporate Transparency Act – the most meaningful update to U.S. anti-money laundering laws in two decades, which would effectively end the abuse of anonymous shell companies – with the support of a wide-ranging bipartisan coalition, including groups from Dow Chemical to Friends of the Earth.²⁴ The Treasury Department is diligently working to implement the law, but to-date, none of the three anticipated rules affiliated with the law are finalized.

Congress should first use its oversight role to continue working with FinCEN to ensure the timely implementation of the Corporate Transparency Act, with the intention of finalizing the rulemaking on this directory by the end of 2022 – a full year beyond the statutory timeline. Doing so would make it harder for drug dealers to set up and use U.S. entities with hidden owners.

Second, Congress should continue weighing in on the first rulemaking, defining which entities and what information will be required to be reported to a secure FinCEN directory. The initial rule was strong, gaining the support of law enforcement,²⁵ small business associations,²⁶

²³ “Commission on Combating Synthetic Opioid Trafficking, “Final Report,” RAND, February 8, 2022, p. 46, https://www.rand.org/pubs/external_publications/EP68838.html. See also Rep. David Trone and Sen. Tom Cotton, “Trone, Cotton Lead U.S. Commission on Combating Synthetic Opioid Trafficking, Release Final Report Outlining Its Key Findings and Proposals,” February 8, 2022, <https://trone.house.gov/2022/02/08/commission-report/>.

²⁴ FACT Coalition, Endorsements for Beneficial Ownership Transparency, <https://thefactcoalition.org/endorsements-beneficial-ownership-transparency/>.

²⁵ National District Attorneys Association (NDAA), Comment to FinCEN on the NPRM establishing Beneficial Ownership Reporting Requirements, February 7, 2022, <https://www.regulations.gov/comment/FINCEN-2021-0005-0396>.

²⁶ Small Business Majority, Comment to FinCEN on the NPRM establishing Beneficial Ownership Reporting Requirements, February 7, 2022, <https://www.regulations.gov/comment/FINCEN-2021-0005-0379>. See also The American Sustainable Business Network, Comment, February 7, 2022, <https://www.regulations.gov/comment/FINCEN-2021-0005-0432>.

anti-human trafficking groups,²⁷ human rights organizations,²⁸ and Congress.²⁹ Yet, as Chairman Whitehouse has already pointed out, there are still some concerns regarding how to tighten up language around exemptions and prevent measures initially intended as efficiency mechanisms to be abused for secrecy purposes.³⁰

Finally, Congress should work with FinCEN ahead of the second rulemaking defining database access to ensure that law enforcement at the state, local, and federal level have timely and uncomplicated access to full records in the database, as this will be key to curbing drug trafficking. It is not clear that FinCEN will be provided that type of access. Similarly, as the law allows foreign competent authorities to make requests of U.S. agencies for information in the database, FinCEN should define protocols in a way that facilitates international cooperation on narcotics cases.

Consider Legislative Action to Close Gaps in Coverage for the Corporate Transparency Act

Congress should also note that there are certain trusts and other entities exempted from or otherwise not covered by the Corporate Transparency Act and subsequent draft rule that may still pose risks for narcotics trafficking and money laundering. Congress should examine these exemptions and consider if they warrant further legislative action.

Work with FinCEN to Finalize Rules to Institute AML Obligations for Investment Advisers and Unregistered Investment Companies

Despite Treasury Department efforts in 2003 and 2015 to bring investment advisers and unregistered investment companies under the purview of the Bank Secrecy Act, the private investment sector still operates without any of the same anti-money laundering safeguards as banks, broker-dealers, and registered investment companies like mutual funds. In December 2021, the Administration stated, as part of the Strategy to Counter Corruption, its renewed intention to review and advance rulemakings to close this gap.³¹

²⁷ Polaris, Comment to FinCEN on the NPRM establishing Beneficial Ownership Reporting Requirements, February 7, 2022, <https://www.regulations.gov/comment/FINCEN-2021-0005-0370>.

²⁸ The Sentry comment, signed by a dozen human rights organizations, FinCEN on the NPRM establishing Beneficial Ownership Reporting Requirements, February 7, 2022, <https://www.regulations.gov/comment/FINCEN-2021-0005-0312>.

²⁹ Comment from CTA authors Rep. Maloney, Sen. Brown, and Rep. Waters, February 7, 2022, <https://www.regulations.gov/comment/FINCEN-2021-0005-0165>. See also Comment from Sen. Whitehouse and Sen. Wyden, February 7, 2022, <https://www.regulations.gov/comment/FINCEN-2021-0005-0374>.

³⁰ Sen. Whitehouse and Sen. Wyden, Comment to FinCEN on the NPRM establishing Beneficial Ownership Reporting Requirements, February 7, 2022, <https://www.regulations.gov/comment/FINCEN-2021-0005-0374>. For further information, see a blueprint from the FACT Coalition as part of the same comment period: <https://thefactcoalition.org/corporate-transparency-acts-draft-rule-applauded-by-fact-coalition/>.

³¹ White House, "U.S. Strategy on Countering Corruption," December 2021, <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>.

Congress should work with FinCEN to bring investment advisers and unregistered investment companies into alignment with their counterparts in the U.S. financial system by requiring them to stand up basic risk-based AML programs, file Suspicious Activity Reports (SARs) with FinCEN, and maintain accurate records.

Support FinCEN Efforts to Bring Meaningful AML Disclosures to the U.S. Real Estate Sector

In 2002, the Treasury Department identified the real estate sector as an industry that would be required to stand up anti-money laundering programs, but then granted the sector a “temporary” exemption from meeting those obligations. Twenty years later, that exemption is still in place. FinCEN is now reassessing the exemption in light of ongoing and consistent abuse of the real estate sector.³²

Previously, FinCEN took important but inherently limited steps to stem money laundering in real estate. Since 2016, a renewable Treasury pilot program – known as the real estate Geographic Targeting Orders (GTOs) – has required title agents to report to FinCEN the true, “beneficial” owner behind an entity making an all-cash purchase of real estate in up to 22 counties in the United States. These reports are only filed for all-cash residential transactions that exceed \$300,000 in value. Additionally, the temporary nature of these orders demands that they be renewed every six months, introducing uncertainty for industry and increasing burden on the federal agency.

Congress can continue³³ to urge FinCEN to adopt rules that would introduce permanent, nationwide standards, without cash thresholds, and would cover both residential and commercial real estate transactions. Doing so would give law enforcement increased tools to tackle the financing of drug trafficking networks.

Bring “Gatekeeper” Industries under Anti-Money Laundering Rules

Congress should also consider measures to require additional scrutiny within industries best placed to spot risks of money laundering. The new United States Strategy on Countering Corruption marks the Administration’s intention to bring key “gatekeeper” industries – including lawyers, corporate and trust formation agents, and accountants, as well actors in real estate and

³² Financial Crimes Enforcement Network, “Anti-Money Laundering Regulations for Real Estate Transactions,” <https://www.regulations.gov/document/FINCEN-2021-0007-0001/comment>.

³³ Sen. Whitehouse, Comment in Response to FinCEN’s ANPRM on Real Estate Money Laundering, February 21, 2022, <https://www.regulations.gov/comment/FINCEN-2021-0007-0118>.

private investment – under the purview of U.S. anti-money laundering laws.³⁴ As these professions are situated to create and direct hidden wealth through opaque entities on behalf of their clients, this would be a key step to ensure criminals and corrupt officials are denied financial safe haven in the United States.

Congress should work with the Administration to advance legislation, whether the ENABLERS Act (H.R. 5525) or successor legislation, to help close these long-standing gaps in safeguards for the U.S. financial system.³⁵

Approve an Expanded Budget for the Financial Crimes Enforcement Network

The Financial Crimes Enforcement Network will need additional resources and staff to draft and finalize the numerous rulemakings on anonymous shell companies, real estate money laundering, private investment funds, and gatekeepers. Congress must finally approve a budget that meets the Biden Administration’s requested \$190 million for FY2022, so that FinCEN can carry out the ambitious anti-corruption reforms laid out in the new Administration strategy.

Congressional appropriators should further consider if there are ways to “reimagine” FinCEN’s mandate and help it become a central hub of anti-money laundering expertise for state, local, and federal law enforcement, including by creating a training academy to bring anti-money laundering approaches into the standard course of investigations.³⁶

Conclusion

In conclusion, Congress has an important role to play in ensuring that the U.S. financial system is not a vehicle for tax dodging, corruption, human rights abuses, or other financial harms.

We hope this hearing provides members of the caucus an opportunity to better understand the dangers posed by gaps in the U.S. AML framework and move to address them. I thank you for this opportunity to share our views, and I look forward to working with you on this important issue.

³⁴ U.S. White House, “United States Strategy on Countering Corruption,” December 6, 2021, p. 23, <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>.

³⁵ “Representatives Malinowski, Salazar, Cohen and Wilson Introduce Bipartisan Legislation to Stop Enablers of International Corruption,” October 6, 2021, <https://malinowski.house.gov/media/press-releases/representatives-malinowski-salazar-cohen-and-wilson-introduce-bipartisan/>.

³⁶ Global Financial Integrity, “Enhancing National Security by Reimagining FinCEN,” March 1, 2021, <https://gfin integrity.org/report/enhancing-national-security-by-reimagining-fincen/>.