U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 11, 2015

The Honorable Charles E. Grassley
Chairman
Caucus on International Narcotics Control
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed please find responses to questions for the record arising from the appearance of Joseph T. Rannazzisi, Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, before the Caucus on May 14, 2014, at a hearing entitled "America's Addiction to Opioids: Heroin and Prescription Drug Abuse." We hope that this information is of assistance to the Committee.

Please do not hesitate to contact this office if we may be of additional assistance regarding this or any other matter. The Office of Management and Budget has advised us that there is no objection to submission of this letter from the perspective of the Administration's program.

Sincerely,

Peter J. Kadzik
Assistant Attorney General

Enclosure

cc: The Honorable Dianne Feinstein
Co-Chairman

Questions for the Record
Deputy Assistant Administrator Joseph T. Rannazzisi
Drug Enforcement Administration
Caucus on International Narcotics Control
United States Senate
Hearing on "America's Addiction to Opioids: Heroin and Prescription Drug Abuse"
May 14, 2014

Questions Posed by Senator Dianne Feinstein

1. **Between 2008 and 2013, the amount of heroin seized the Southwest Border increased by nearly 300%. The vast majority of heroin that currently enters the United States comes from Mexico or South America, and the Mexican based Sinaloa Cartel is expanding its share of the heroin market in the United States.**

   A. **What is the DEA doing domestically, and with its international law enforcement partners, to target the people and networks that distribute heroin in the United States?**

Response:

Domestically, the Drug Enforcement Administration (DEA), U.S. Department of Justice (DOJ), continues to actively investigate those networks responsible for importing and distributing heroin in the United States. DEA works with federal, state, tribal, and local law enforcement partners in furtherance of multi-jurisdictional heroin investigations. Since Fiscal Year (FY) 2011, DEA has initiated more than 1,100 opiate-related investigations worldwide against command and control elements of major international drug trafficking organization and/or money laundering enterprises that significantly impact the United States illicit drug supply. DEA continues to focus enforcement efforts on both heroin and prescription opioid trafficking, as abuse patterns are interrelated.

Internationally, DEA's presence in source and transit countries provides an opportunity for DEA Country Offices to collaborate with international law enforcement partners to thwart the importation of heroin before it arrives in the United States. DEA continues to monitor and report changes in availability, sources, adulterants, and user demographics based on intelligence analysis. DEA will continue to liaise with international, federal, state, tribal, and local law enforcement partners in an effort to develop and implement strategies to address this public health crisis.

B. Also, given the increasing role of the Sinaloa Cartel in producing and distributing heroin in the United States, what more can be done to address this problem?

Response:

DEA is systematically targeting high-level heroin suppliers, including Sinaloa Cartel leadership, in partnership with foreign, federal, state, and local law enforcement authorities.

As noted previously, since FY 2011, DEA has initiated more than 1,100 opiate-related investigations worldwide against command and control elements of major international drug trafficking organizations and/or money laundering enterprises that significantly impact the United States illicit drug supply. Mexican drug trafficking organizations (DTOs) are increasingly trafficking white heroin, a development that signals a possible strengthening of Mexican drug cartel influence over the U.S. heroin trade. DEA has responded to the rising heroin threat by increasing heroin-related enforcement efforts nationwide. The number of DEA cases involving heroin has increased steadily since 2007. During FY 2013, DEA opened 1,880 heroin cases, an increase of 69 percent over the number opened in 2007. Additionally, heroin-related arrests increased 65 percent during that time.

DEA believes that the increase in heroin use is driven by many factors, including an increase in the misuse and abuse of prescription psychotherapeutic drugs, specifically opioids. Increases in heroin purity and availability, the low street cost of heroin, the expanded Mexican DTO involvement in the distribution of heroin, and the lack of public awareness of the risks of heroin use are also important contributing factors. DEA will continue to assess and adapt our strategy consistent with the trends in heroin trafficking in order to identify, disrupt, and dismantle the nation's most significant heroin suppliers.

2. The DEA has been working on a regulation to implement the Secure and Responsible Drug Disposal Act of 2010 for four years now. This regulation is intended to provide new means for individuals to dispose of unused and unwanted prescription drugs from their medicine cabinets to prevent them from being abused.

A. During the hearing, you indicated that DEA is working toward implementing the final rule, and that it has received feedback from OMB. Can you provide this Caucus with an assurance that this regulation will be implemented this year? If not, why not?

Response:

On September 9, 2014, DEA published in the Federal Register the final rule on the Disposal of Controlled Substances. The final rule became effective on October 9, 2014, and it implements the Secure and Responsible Drug Disposal Act of 2010 by establishing requirements that allow authorized registrants to develop secure, ongoing, and responsible methods for ultimate users and Long Term Care Facilities (LTCFs) to dispose of pharmaceutical controlled substances. The

final rule expands the options available to collect controlled substances from ultimate users for the purpose of disposal, including (1) take-back events; (2) mail-back programs; and (3) collection receptacle locations. These regulations contain specific provisions that:

- Recognize the continuing authority of law enforcement agencies to voluntarily conduct take-back events, administer mail-back programs, and maintain collection receptacles;
- Allow authorized manufacturers, distributors, reverse distributors, narcotic treatment programs, hospitals/clinics with an on-site pharmacy, and retail pharmacies to voluntarily administer mail-back programs and maintain collection receptacles; and
- Allow authorized retail pharmacies and hospitals/clinics with an on-site pharmacy to voluntarily maintain collection receptacles at LTCFs.

3. The Ryan Haight Act has effectively shut down rogue online pharmacies. Unfortunately, people are now turning to brick and mortar "pill mills." When law enforcement cracks down on pill mills in one state, they often move to another state.

A. When the DEA cracks down on pill mills in one state, what is it doing to ensure that these pill mills don't simply pick up and move to another state?

Response:

Pain clinics, some of which are illegitimate and commonly referred to as "pill mills," are neither registered with DEA as "pain clinics" or "pill mills," nor are they subject to direct DEA regulation as "pain clinics."

Generally, pill mills hire a practitioner with a DEA registration number to write illegitimate prescriptions for controlled substances. Some practitioners will generate large volumes of illegitimate prescriptions— similar to a pill mill— as a supplement to their unrelated medical practice (for example, a pediatrician might provide medical care to children while also issuing illegitimate prescriptions to a large number of walk-in adults). DEA utilizes criminal and regulatory actions to close pill mills. Two such regulatory actions are an Order to Show Cause (OSC), and an Immediate Suspension Order (ISO).

Once DEA identifies a pill mill and determines that the practitioners associated with the pill mill are not acting in compliance with the Controlled Substances Act (CSA), DEA issues an OSC or an ISO on the associated practitioner's DEA registration number. In the event that DEA seeks to deny an applicant's application for registration, the agency may be required under the CSA to serve him or her with an OSC, which provides the applicant the opportunity to respond in writing and/or request a hearing in accordance with the Administrative Procedure Act. 21 U.S.C. § 824. Alternatively, DEA can issue an ISO, which suspends the practitioner's DEA registration pending a hearing due to the imminent threat to public safety. Either of these regulatory actions will help to dismantle the pill mill, as the relevant practitioners will no longer have authority to write prescriptions for, or administer, controlled substance pharmaceuticals. This does not,

however, prevent another unscrupulous practitioner from writing illegitimate prescriptions for the pill mill.

If a practitioner applies for a DEA registration, he or she must answer "yes" to the liability questions in the application if he or she had a DEA registration number revoked, suspended, or otherwise restricted. DEA conducts the pre-registration investigation accordingly. If DEA identifies the applicant as having previously been associated with or operated a pill mill, DEA may seek to deny the new application for registration through an OSC based on a number of factors, including but not limited to the applicant's past practices.

Please note that some states require the licensure of pain clinics and that these clinics be operated by health care professionals or practitioners. Other states do not place restrictions on who may own pain clinics.

Questions Posed by Senator Grassley

Purdue Pharmaceuticals

4. **Senator Feinstein and I have been conducting an investigation into Purdue Pharmaceuticals' Region Zero database. The DEA informed us that in 2011, it received from Purdue a list of 88 doctors suspected of reckless prescribing practices, but that it has neither received nor inquired about the full Region Zero database, which contains roughly 1,800 doctors suspected of the same.**

   A. **Has the DEA proactively requested information from any opioid manufacturer or distributor about suspected reckless prescribing of its drug products? If so, please provide relevant details, including any information received by the DEA. If not, why does the DEA not make such requests as a matter of course?**

Response:

As described in more detail below, DEA proactively conducts investigations of registrants. DEA does not publically disclose its investigative methods and information as this may compromise its ability to enforce the Controlled Substances Act and protect public health and safety.

   B. **Why has DEA still not sought out the entire Region Zero database from Purdue?**

Response:

In August 2005, the DEA Office of Diversion Control established the Distributor Initiative Program to educate and inform manufacturers and distributors of their responsibilities under the CSA and its implementing regulations by discussing suspicious order monitoring systems, reviewing sales and purchase data, and discussing national trends involving the abuse and diversion of controlled substances. DEA met with Purdue Pharma as a part of the Distributor Initiative in April 2011, at which time Purdue Pharma provided DEA with a list of 88 practitioners it identified as suspicious prescribers. DEA reviewed this list, but it did not provide any actionable leads. Please note that since this meeting, DEA has not sought any additional lists of practitioners from Purdue Pharma because the initial list provided no actionable information.

DEA has access to a number of investigative resources – including reporting databases, state-run prescription drug monitoring programs, and other registrants' records (for comparison and verification purposes). Investigations initiated by DEA can be proactive where the agency has determined through its own activities that a registrant warrants investigation. DEA's investigation initiation can also be reactive, when the agency determines that a registrant investigation is necessary based on a tip from an external source, such as a concerned citizen, a state regulatory board, or another law enforcement agency. Please note that when DEA

investigates diversion, DEA considers all relevant factors, including but not limited to the volume of controlled substances purchased, sales, legitimacy of prescriptions, registrant location, and local population.

Abuse Deterrent Formulations

5. Some prescription opioids on the market currently contain abuse deterrent formulations; others are undergoing design, testing, and approval.

A. Are current abuse deterrent formulations having an impact on diversion and overdose rates?

Response:

The abuse and misuse of opioids exists in a dynamic environment. This is a complex issue with many variables. As opioid prescriptions increase, so do opportunities for the misuse and diversion of legitimate pharmaceuticals.

Abuse-deterrent formulations (ADFs) are generally product-specific, often employing unique mechanisms to thwart abusers' attempts to manipulate a drug product to obtain the active ingredient. Assessing the overall impact of ADFs will require long-term studies that consider, among other things, transitions between substances of abuse.

DEA defers to the Centers for Disease Control on the matter of prescription opioid overdose rates.

B. Do the current abuse deterrent formulations have flaws that still permit users to get high or overdose? What if anything can be done to address these flaws?

Response:

ADFs are intended to dissuade the non-medical use and diversion of treatment agents. ADFs can be a critical component of a strategy to promote the safe use of substances with an abuse potential. Because not all treatment agents are identical, not all deterrent formulations are identical and a singular approach is not possible. For this reason, it remains unlikely any ADF alone will be sufficient to address prescription opioid misuse, abuse, and diversion.

People who use controlled prescription drugs for non-medical reasons are in search of a desired "reward" of euphoria and will attempt to manipulate the formulation or modes of self-administration, or may even transition to other substances of abuse to achieve the desired outcome. The overall impact of ADFs will require long-term epidemiological studies for impact comparisons as to the effectiveness of the safeguards.

Prescription Drug Wholesaler Guidance

6. **My staff has heard complaints from prescription drug wholesalers that the DEA does not provide sufficiently specific guidance about the appropriate order sizes of opioid drugs from pharmacies, which can result in some wholesalers simply refusing to supply pharmacies.**

   A. **Describe the guidance DEA has provided to wholesalers about the appropriate order sizes for prescription opioids.**

Response:

DEA regulations require non-practitioners such as wholesale distributors to design and operate a system to disclose to the registrant suspicious orders of controlled substances. The registrant shall inform the DEA Field Division Office in the area of suspicious orders when discovered by the registrant. Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency. 21 CFR 1301.74(b).)

Further, all DEA registrants "shall provide effective controls and procedures to guard against theft and diversion of controlled substances." 21 CFR 1301.71(a). One factor relevant to compliance with the security requirements is the "adequacy of the registrant's . . . system for monitoring the receipt, manufacture, distribution, and disposition of controlled substances in its operations." 21 CFR 1301.71(b)(14).

There is no "appropriate order size" for prescription opioids that is an automatic indicator of diversion, and an individualized determination must be made in consideration of all of the circumstances pertaining to the ordering registrant. In fact, in the past when some distributors imposed superficial numerical limits, diverting pharmacies devised ways to circumvent the numerical limits, e.g., ordering from multiple distributors or placing multiple "low" orders. In addition, numerical limits could potentially adversely impact patient access, i.e., there might be legitimate reasons for exceeding a superficial numerical limit, such as providing services to a cancer treatment center, or stocking up due to price breaks.

In recent years, DEA has steadily increased the frequency of compliance inspections of specific registrant categories such as manufacturers (including bulk manufacturers), distributors, pharmacies, and certain practitioners. This renewed focus on oversight has enabled DEA to take a more proactive approach to educate registrants and ensure that DEA registrants understand and comply with the CSA and its implementing regulations. DEA conducts approximately 6,000 regulatory inspections every year to ensure compliance with the law. Each inspection entails direct communication between DEA and the registrant to educate the registrant about proper procedures and to ensure any necessary corrective action is taken to comply with the law. These inspections typically result in remediation or continued compliance, and no further action is taken. DEA conducts compliance inspections of registered distributors every two years.

DEA's Distributor Initiative Program was implemented in late 2005 and was designed to educate wholesale distributors in an effort to alert them that some of their customers might be involved in diversion schemes such as rogue Internet pharmacies, and more recently rogue pain clinics and rogue pharmacies. The goal of the program is to cut off the source of supply to these or other schemes through effective due diligence and suspicious order monitoring. As stated above, wholesale distributors are required to design and operate a system that would disclose suspicious orders to the registrant and report those suspicious orders to DEA. Through the Distributor Initiative Program, DEA provides registrants with information such as "red flags," trending information, and data analysis that they should be aware of prior to distributing controlled substances. Every situation is different, but factors that should generally be considered include, but are not limited to: the type of drug(s) ordered (e.g., the breadth and schedule of controlled substances ordered), orders of unusual size, orders that deviate from a normal pattern, frequency of orders, and the percent of controlled and non-controlled substances ordered.

In June 2013, DEA held a two-day Manufacturers/Importers/Exporters Conference, which provided a forum to present federal laws and regulations that affect the pharmaceutical and chemical manufacturing, importing, and exporting industry and to discuss practices designed to detect and prevent diversion. In addition, topics such as quotas, year-end reporting, Automation of Reports and Consolidated Ordering System (ARCOS) reporting, import/export permits, and import/export declarations were discussed. Approximately 370 people attended, representing over 200 registrants. Currently, there is a Manufacturers/Importers/Exporters Conference tentatively scheduled for September 22-24, 2015.

DEA has also held two Distributor Conferences, most recently on April 15-16, 2015, and previously on October 22, 2013. These conferences provided an overview of federal laws and regulations that affect pharmaceutical and chemical distributors, such as recordkeeping, ARCOS, and suspicious order monitoring.

B. Can the DEA provide more specific guidance on this issue?

Response:

As described above, DEA has provided guidance to wholesalers through various means. Short of providing guidance on specific amount(s) of controlled substances that may be sold by a distributor to its customers (as has been routinely requested by this registrant population), DEA encourages wholesalers to perform their due diligence, know their customers, and pay attention to red flags outlined in DEA guidance.

Questions Posed by Senator Tom Udall

7. What effect do you believe fully legalizing recreational marijuana, as Colorado and Washington states have done, will have on efforts to combat the crisis in opioid and heroin abuse?

Response:

According to the 2014 National Drug Threat Assessment, more than 80 percent of state and local law enforcement entities reported that marijuana was readily available in their jurisdictions. The greater availability of marijuana is due in part to domestic indoor grow operations and states permitting the cultivation of marijuana for medical or recreational purposes. Research in animals and humans suggests that those who abuse marijuana early in life may have an increased vulnerability for drug abuse and addiction later in life.[1, 2] DEA will continue to monitor trends in drug use in these areas to understand the extent to which the abuse of heroin, opioids, and other drugs changes over time. DEA will also continue to address the crisis in opioid and heroin abuse in locations where marijuana has been legalized for recreational and medical use as well as other localities that have been impacted by this emerging drug threat.

[1] Pistis M, Perra S, Pillolla G, Melis M, Muntoni AL, Gessa GL. Adolescent exposure to cannabinoids induces long-lasting changes in the response to drugs of abuse of rat midbrain dopamine neurons. *Biol Psychiatry.* 2004;56:86-94

[2] Agrawal A, Neale MC, Prescott CA, Kendler KS. A twin study of early cannabis use and subsequent use and abuse/dependence of other illicit drugs. *Psychol Med.* 2004;34:1227-1237.