



## House Energy & Commerce Committee

### Hearing on:

### **“Federal Efforts to Combat the Opioid Crisis: A Status Update on CARA and Other Initiatives”**

On behalf of the Peace Officers Research Association of California (“PORAC”), I appreciate this opportunity to provide the Committee with testimony on the toll the opioid abuse epidemic is taking on our local communities and the dangers that law enforcement agencies face in our fight against this deadly scourge.

We commend Congress for taking action to address this multifaceted problem with the passage of the Comprehensive Addiction and Recovery Act (CARA) last year. CARA supports education, prevention, treatment, and recovery efforts to address the epidemic and aims to help those addicted to opioids get and stay well. And while this legislation is an important step in the fight against opioid abuse, its impact may not be fully realized for some time and we must not grow complacent after its passage. Rather, based on what PORAC members are experiencing in the communities they serve, we encourage Congress to double-down on its efforts to eradicate this deadly epidemic.

PORAC is our nation’s largest statewide association representing public safety personnel. As the organization’s president, it is my distinct privilege to represent over 70,000 members of the public safety community. Our members serve in California and include active, retired, and reserve municipal police officers and sheriff’s deputies as well as correctional and probation officers, airport police, and officers in other statewide groups. PORAC is dedicated to empowering and representing the interests of rank-and-file peace officers and to protecting the rights of the men and women who on a daily basis keep our nation’s communities safe.

Police and public safety personnel do much more than safeguard our communities from crime. As funding and programming for community health initiatives continue to decline, law enforcement has stepped up to fill the void. In many instances, local police are the first to respond to crisis calls relating to drug use, mental illness, and other health matters.<sup>1</sup>

Good policing, therefore, has expanded beyond securing just the physical safety and well-being of our communities. Law enforcement is on the front lines combatting the opioid abuse epidemic, and it is my hope this Committee takes note of this new role being taken on by peace officers across the country .

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<sup>1</sup> It is not uncommon for law enforcement to be called to a scene of a drug overdose and have to administer overdose reversal drugs. *See generally*, <http://stopoverdose.org/>.



## **I. The Economics and Origins of Heroin and Opioid Abuse**

Heroin and opioids have historically been available to American citizens and law enforcement has consistently worked to combat the abuse and illegal trafficking of those substances. Over the past several years, opioid abuse has increased dramatically throughout the nation. According to data from the Center for Disease Control and Prevention (“CDC”), for example, drug overdose deaths in 2016 most likely exceeded 64,000, an increase of 22% percent from the previous year—the largest annual increase ever recorded.<sup>2</sup> These figures are deeply troubling and should inspire lawmakers and law enforcement to reinforce their collaborative efforts.

There are multiple factors at play in this trend. But chief among them is the price competitiveness of heroin and other opioids vis-à-vis other illegal substances, including cocaine and methamphetamines. This is unsurprising. The ebbs and flows of specific illegal drugs are often linked to cyclical patterns based on supply and price competitiveness.

There is an interesting additional factor at play in the case of opioids: legality. Since legitimate medical treatment can often involve opioids without running afoul of the law, opioid addiction and abuse – in contrast to the use of other drugs – can be the result of a legitimate medical use. Our local law enforcement has noticed that pharmaceutical opioids, including drugs such as Vicodin or Percocet, are often a source of experimentation for young people. In many instances, youth experiment at parties with an opioid stolen from a family member’s prescription and once hooked, eventually shift to cheaper tar heroin sold on the streets.

Street heroin is commonly laced with fentanyl, a highly addictive and dangerous synthetic opiate that many have attributed to the increase in overdoses and heroin deaths. drug overdoses involving fentanyl have increased by 540% in the past three years, rising from 3,000 to 20,000 deaths from 2013 to 2016.<sup>3</sup> The increase in incidence of fentanyl use has presented new, potentially lethal challenges for police and public safety personnel -- which I discuss in greater detail below.

California law enforcement has seen a rise in the trafficking of street heroin by Mexican drug cartels. California’s Central Valley, for example, is a primary destination and distribution point for heroin once it crosses the border from Mexico. From the Central Valley, the drug is moved north and east: to northern California and to other states. Local law enforcement is collaborating with federal authorities to halt the ever-increasing flow of heroin into our country.

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<sup>2</sup> Katz, Josh. “Fentanyl Overtakes Heroin as Leading Cause of U.S. Drug Deaths.” The New York Times, 2 Sept. 2017, [www.nytimes.com/interactive/2017/09/02/upshot/fentanyl-drug-overdose-deaths.html](http://www.nytimes.com/interactive/2017/09/02/upshot/fentanyl-drug-overdose-deaths.html).

<sup>3</sup> *Id.*



However, it is not an easy task – a task made more difficult by the cuts to both local and federal law enforcement budgets that limit the ability of law enforcement to engage in effective community policing.

## II. The Growing Health Risks Facing Law Enforcement

As noted above, law enforcement has been encountering more and more drugs that contain fentanyl, which can be more than 50 times as potent as heroin. Because of fentanyl's potency—and because law enforcement must respond to drug overdoses with increasing regularity—it represents an unusual health hazard for police and public safety personnel.<sup>4</sup>

The Drug Enforcement Agency (DEA) this past summer issued an urgent warning to law enforcement and first responders that contained the following cautionary language: “Since fentanyl can be ingested orally, inhaled through the nose or mouth, or absorbed through the skin or eyes, any substance suspected to contain fentanyl should be treated with extreme caution as exposure to a small amount can lead to significant health-related complications, respiratory depression, or death.”<sup>5</sup>

The DEA's alert came after multiple incidents of officers unknowingly came into contact with the drug and suffered serious reactions. In May of this year, for example, a police officer in Ohio wiped a trace of white powder off of his shirt after searching a car containing drugs. The white powder turned out to be fentanyl, and an hour later he lost consciousness only to be saved by four doses of naloxone.<sup>6</sup> It should be noted that our canine partners are also at risk of ingesting, inhaling, or absorbing (through their paws) the drug and obviously have a much lower tolerance than humans.

PORAC is encouraged by the DEA's focus on educating law enforcement and the public about the lethality of fentanyl and, in turn, the dangers it poses to police and public safety personnel who while carrying out their duties come into contact with the drug.

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<sup>4</sup> Sarah Zhang, *Fentanyl is So Deadly That It's Changing How First Responders Do Their Jobs*, [The Atlantic](https://www.theatlantic.com/health/archive/2017/05/fentanyl-first-responders/526389/) (May 15, 2017), <https://www.theatlantic.com/health/archive/2017/05/fentanyl-first-responders/526389/>.

<sup>5</sup> For Fentanyl: A briefing Guide for First Responders, see [https://www.dea.gov/druginfo/Fentanyl\\_BriefingGuideforFirstResponders\\_June2017.pdf](https://www.dea.gov/druginfo/Fentanyl_BriefingGuideforFirstResponders_June2017.pdf)

<sup>6</sup> Megan Cerullo, *Ohio police officer accidentally overdoses on fentanyl by brushing it off shirt after drug bust*, [New York Daily News](http://www.nydailynews.com/news/crime/ohio-police-officer-accidentally-overdoses-fentanyl-article-1.3170821) (May 16, 2017), <http://www.nydailynews.com/news/crime/ohio-police-officer-accidentally-overdoses-fentanyl-article-1.3170821>.



### III. Opioid Abuse and Criminal Justice

In California and across the nation, there has been a big push to enact sentencing reform in light of rising prison costs and over-crowding. For drug crimes in particular, the sentencing reform movement has tended to discourage incarceration and instead focus on the benefits of rehabilitation and treatment.

PORAC recognizes that our state and federal jails and prisons are seriously overcrowded and believes it is imperative that we fix this problem. To be effective, sentencing reform must adjust sentencing practices in a meaningful way that keeps our communities safe. With regard to opioid abuse, this means that sentencing reforms must be paired with well-supported and effective social services.

California's experience has been instructive in this regard.<sup>7</sup> Of particular relevance is the state's most recent sentencing reform initiative, Proposition 47, which California voters approved on November 4, 2014.

Historically, when an individual was arrested in California for possession of narcotics such as cocaine, heroin, or methamphetamine he or she was charged with a felony (and the charge could not be reduced to a misdemeanor). Proposition 47 reclassified many "non-serious" and "non-violent" property and drug felonies, including possession of heroin for personal use, as misdemeanors.<sup>8</sup>

Problematically, Proposition 47 took prison "off the table" for those charged with drug possession, but failed to fill that void with sufficient social services. So, while the number of individuals that are being charged with misdemeanor possession of heroin and other illegal drugs continues to increase, there is no place to send these people for treatment for drug addiction.

There are not enough beds in rehabilitation facilities or enough providers of social services in the state of California to support addicts. Furthermore, given the toothless nature of our state's criminal laws since passage of Proposition 47, it is also difficult to ensure an

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<sup>7</sup> California has had a circuitous path to sentencing reform and many of those efforts have been blamed for present day overcrowding. This has included the 1993 "Three Strikes" sentencing law, when California went "tough on crime." Similarly, California law enforcement has been on the front lines in dealing with the fallout since 2011 from AB109 "prison realignment," which diverted low-level offenders from state prisons to local county jails, and placed an enormous financial and administrative burden on local law enforcement. Specifically, AB109 prison realignment "altered both sentencing and post-prison supervision for the newly statutorily classified "non-serious, non-violent, non-sex" offenders." See generally California's "Three Strikes" Sentencing Law, <http://www.courts.ca.gov/20142.htm>; Stanford Law School, California Realignment, available at <http://www.law.stanford.edu/organizations/programs-and-centers/stanford-criminal-justice-center-cjc/californiarealignment>.

<sup>8</sup> For the text of Proposition 47, see <http://vig.cdn.sos.ca.gov/2014/general/pdf/text-of-proposed-laws1.pdf#prop47>; see also Attorney General of California, Official Title and Summary of Proposition 47, available at <http://vig.cdn.sos.ca.gov/2014/general/pdf/proposition-47-title-summary-analysis.pdf>.



individual provided a spot in a rehabilitation facility actually receives treatment. This is very problematic given how hard it is to break any drug addiction, and opioid addiction in particular. Unfortunately, without treatment, many addicts are turning to crime to fund their drug habits. In fact, California law enforcement has already begun noting an uptick in the number of property crimes since passage of Proposition 47.<sup>9</sup>

### **III. Policy Solutions**

The escalation of opioid abuse is very real. Tackling the opioid epidemic will be difficult. PORAC supports rational and meaningful policy reforms that consider the views of all stakeholders and encourages lawmakers to consider the following policy solutions.

First, PORAC urges Congress to work to seal our borders to prevent the entry of illegal drugs from abroad. People choose heroin because it is plentiful and cheap. Smart security and customs policy can change this reality, and when it does, it is very likely that heroin's street popularity will decline—helping to reduce the supply and to mitigate the trend of opioid addicts transitioning to heroin.

Second, PORAC believes it is imperative lawmakers enact laws to ensure that opioid pharmaceuticals are being prescribed in a safe manner. Irresponsible prescribing practices are exacerbating this epidemic. Every day, our rank-and-file officers are trying to work with and help people whose addictions to heroin began with access to legally prescribed opiates. It is time for policymakers to cut this “access point” by meaningfully regulating medical prescribing practices and pain clinics while also promoting systems to monitor prescription use and identify fraudulent prescriptions.

Third, PORAC exhorts lawmakers to fully fund community policing efforts and social services programs. Without sufficient funding, local police cannot protect citizens and social service providers cannot help address addiction and other health concerns that are often closely connected with criminal justice.

Fourth, PORAC encourages policymakers in Congress and at the federal agencies to recognize the health risks posed to law enforcement by fentanyl and provide appropriate resources and materials to mitigate these risks. For instance, PORAC urges the Food and Drug Administration to consider developing guidance similar to what the DEA has produced in order to educate first responders about the dangers of fentanyl.

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<sup>9</sup> For example, according to the most recent crime statistics provided by the City of Sacramento Police Department to the FBI for inclusion in their federally mandated Uniform Crime Report, between January-October 2015, in Sacramento the number of burglaries increased by 16.16%, larceny by 2.56%, and motor vehicle theft by 27.39% as compared to the data from January-October 2014. *See also* City of Sacramento, Sacramento Year-to-Date Crime Statistics, *available at* <http://data.cityofsacramento.org/datastreams/92971/sacramento-year-to-date-crime-statistics/>.



Fifth, PORAC urges Congress to carefully review and consider the forthcoming recommendations of the newly-formed President's Commission on Combatting Drug Addiction and the Opioid Crisis. PORAC looks forward to the Commission's report and believes it can help to guide the development of public policy.

#### **IV. Conclusion**

On behalf of PORAC, I thank the members of this Committee for again providing us the opportunity to share our views. Members may note I provided similar testimony to this Committee when it examined the opioid crisis nearly two years ago. Unfortunately, since that time, the problem has only worsened in many areas of the country.

PORAC asks federal lawmakers to learn from California and to continue to discuss the various proposals relating to the heroin epidemic with law enforcement – with the women and men who keep our communities safe from crime every day and who are often front line providers of health services. We stand ready and willing to work with members of the Committee, and with Congress to ensure that federal policy relating to opioid abuse is effective.

Mike Durant  
President, Peace Officers Research Association of California