# Congress of the United States

Washington, DC 20515

July 6, 2026

The Honorable Terrance Cole
Administrator
U.S. Drug Enforcement Administration
8701 Morrissette Drive
Springfield, VA 22152

Dear Administrator Cole:

We write with urgent concern following investigative reporting revealing that U.S. Drug Enforcement Administration (DEA) agents may have allowed large quantities of fentanyl to circulate unseized in New Mexico communities. These reports include whistleblower complaints alleging that Albuquerque-based agents declined to interdict at least 1.8 million fentanyl pills between 2023 and 2025 in hopes of taking down a larger supply chain.[1] We unequivocally assert that allowing fentanyl to go unseized creates an unconscionable risk to New Mexicans. Furthermore, given the seriousness of these allegations and potential ongoing threats to public safety, we require immediate responses regarding your agency's fentanyl interdiction and operational protocols.

Illicit fentanyl poses a uniquely severe, and often deadly, public health crisis in New Mexico and across the country. Pharmaceutical fentanyl, a schedule II substance, is an exceptionally potent synthetic opioid, posing a severe risk of fatality even in extremely small quantities. Its potency is estimated to be significantly higher than other opioids, approximately 50 times stronger than heroin and 100 times stronger than morphine.[2] Because fentanyl is so powerful, even an extremely small amount—roughly equivalent to a few grains of salt—can be a lethal dose. The illegal diversion of pharmaceutical fentanyl most often occurs through supply chain theft, prescription fraud, and rogue actors within the medical system.[3] Unlike pharmaceutical fentanyl, illicitly manufactured fentanyl is mainly produced in clandestine laboratories without approved precursor chemicals and is largely responsible for the overdose crisis in the U.S.[4] Illicit fentanyl and its analogs, schedule I substances, are unregulated lab-made variations of pharmaceutical fentanyl often supplied by drug cartels.[5] Illicit manufacturers frequently mix it into other drugs, such as heroin, cocaine, and counterfeit pills. This means individuals are often unaware they are

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[1] Jim Mustian and Joshua Goodman, "Staggering Amounts of Fentanyl Hit Streets as the DEA Watched and Took No Action, Records Show," *Associated Press*, June 22, 2026, https://apnews.com/article/dea-fentanyl-unseized-drugs-new-mexico-8f5b546e668e5007c64078da74b90903.

[2] Centers for Disease Control and Prevention, "Fentanyl | Overdose Prevention," last modified June 9, 2025, https://www.cdc.gov/overdose-prevention/about/fentanyl.html.

[3] James A. Inciardi et al., "The 'Black Box' of Prescription Drug Diversion," *Journal of Addictive Diseases* 28, no. 4 (October 2009): 332–47, doi.org.

[4] National Institutes of Health, National Institute on Drug Abuse, "Fentanyl," NIH Research Topics, last modified June 6, 2025, https://nida.nih.gov/research-topics/fentanyl.

[5] Carrie MacMillan, "Why Is Fentanyl Driving Overdose Deaths?," *Yale Medicine*, March 18, 2024, https://www.yalemedicine.org/news/fentanyl-driving-overdoses.

ingesting it, which significantly increases the risk of accidental overdose.[6] Because of the variability in illegal drug manufacturing, the amount of synthetic opioid varies widely from pill to pill and, as acknowledged by your agency, a single pill can easily result in a fatal overdose.[7]

Internal DEA documentation indicating shifting agency fentanyl interdiction and operational protocols, without necessary consultation with various Congressional oversight authorities, is of paramount importance to our inquiry. Public reporting has focused on U.S. Department of Justice (DOJ) and DEA "Fentanyl Protocols," established in 2017, mandating that agents "seize or otherwise prevent the distribution" of fentanyl "as soon as practicable" to protect public safety.[8] Subsequently, in 2024, reporting states that DOJ updated these protocols to give law enforcement more discretion, allowing agents to balance public safety risks against "the benefits to be achieved through preserving the investigation."[9] Confirmation of this posture is recorded in a DOJ Office of Professional Responsibility (OPR) 2024 investigative summary, concluding that the U.S. Attorney's Office had made reasonable decisions by allowing drugs to go unseized and that their inaction posed no "specific danger to public health and safety."[10] We adamantly disagree with this internal assessment, and we urge your agency to immediately revert fentanyl protocols to the 2017 standard of *seize or otherwise prevent the distribution of fentanyl as soon as practicable*.

We appreciate that you recently asked DOJ's Office of Inspector General (OIG) to begin an internal, independent investigation of the reported allegations. While we have no interest in interfering with the OIG's progress, we require immediate responses to the following, no later than 10 days from your receipt of this letter, so that we may take appropriate legislative action to reign in any discretionary authority erroneously presumed.

1. Provide comprehensive written documentation of all individual instances, occurring in New Mexico since January 2017, including dates, locations and amount of suspected contraband, during which DEA has declined to interdict fentanyl in the course of a Title III or electronic surveillance investigation. Please also indicate the extent to which fentanyl involved in these investigations was ultimately recovered.
2. What are DEA's current internal directives and guidelines dictating how federal agents manage active drug-trafficking investigations involving fentanyl? Specifically, what protocols instruct agents on whether to seize a shipment of fentanyl immediately or allow it to pass temporarily under surveillance?
3. What internal DOJ or DEA documentation determines, or may supersede, official fentanyl interdiction and operational protocols both as a matter of agency-wide policy and also with regards to individual drug-trafficking investigations? How are these

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[6] National Institute on Drug Abuse, "Fentanyl."

[7] U.S. Drug Enforcement Administration, "One Pill Can Kill," last modified June 29, 2026, https://www.dea.gov/onepill.

[8] Mustian and Goodman, "Staggering Amounts of Fentanyl."

[9] Edward Helmore, "Did US drug agents allow lethal fentanyl to hit New Mexico's streets?" *The Guardian*, June 30, 2026, https://www.theguardian.com/us-news/2026/jun/30/us-drug-agents-new-mexico-fentanyl.

[10] U.S. Department of Justice, Office of Professional Responsibility, "2024 Investigative Summary 8," last modified September 19, 2025, https://www.justice.gov/opr/2024-investigative-summary-8.

changes to operational protocols communicated to agents in the field? Please provide all such documentation since January 2017.

4. Under what circumstances are DEA agents permitted to exercise discretion, abandoning any presumption of interdiction, allowing a fentanyl transaction to proceed without immediate seizure? What safeguards are in place to protect communities when fentanyl shipments are allowed to continue as part of an ongoing investigation?
5. Must agents possess a guaranteed, continuous ability to seize the substance immediately if the operational environment changes? How is the likelihood of losing operational surveillance, and the potential number of lives impacted if the substance enters the illicit supply chain, measured against the benefits of a successful investigation?
6. What circumstances mandate when fentanyl must be safely interdicted, or swapped for a controlled delivery with a substituted substance, before it is allowed to advance within the supply chain? What levels of approval within your command structure are required to bypass immediate interdiction?
7. What other tactics such as controlled deliveries, enhanced surveillance, contraband substitution are available to your agency to facilitate long-term, high-level investigations without an unacceptable risk to public safety? What resources can we provide to make these tactics of more common use to your agency?
8. What is the reassignment status of DEA personnel based in New Mexico to out-of-state enforcement efforts since January 2025? During the same period, have DEA agents in New Mexico maintained their primary focus on drug-trafficking investigations or have any participated in joint immigration enforcement operations not limited to ICE Enforcement and Removal Operations?
9. Please provide a detailed timeline regarding actions taken by the DEA since these whistleblower allegations came to your attention. Will DEA now direct all federal agents involved in drug-trafficking investigations to seize or otherwise prevent the distribution of fentanyl as soon as practicable?

This situation requires that your responses be compiled and returned with the same urgency with which we've submitted our inquiries. We will be taking all necessary actions in Congress to better ensure the safety of New Mexicans and expect that you will stand with us in those efforts.

Sincerely,

Martin Heinrich
United States Senator

Ben Ray Luján
United States Senator

Gabe Vasquez
Member of Congress

Melanie Stansbury
Member of Congress

Teresa Leger Fernández
Member of Congress