

Department of Public Safety

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January 17 2024 Joint Senate Hearing

- Good Morning Senators. My name is Tucker Jones and I am an attorney at the Department of Public Safety.
- The Commissioner spoke about the crime trends the state has been experiencing, and I want to give you one illustration of just one of those trends from last week.
- On January 9, 2024, a business owner on church street in Burlington provided written testimony to the House Committee on Judiciary. [That testimony is available here:
<https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20Judiciary/Bills/H.534/Witness%20Testimony/H.534~Marc%20Sherman~Witness%20Testimony~1-9-2024.pdf>]
- We have heard similar concerns in other communities as well, not just Burlington. My own community in Middlebury is also affected. Consider watching the Middlebury selectboard meeting from October 10, 2023 to get a sense of the impact on merchants in that community. Consider hearing directly from these people affected by these crime trends in this state.
- One of the issues we are trying to solve this session with your colleagues in the Judiciary Committee is how to more effectively respond when people engage in criminal behavior, are apprehended by law enforcement, arraigned for that offense in court, released with conditions of release, and go on to engage in repeat criminal behavior, sometimes dozens of times, while under conditions of release, without an effective intervention to stop that behavior until a case is adjudicated sometimes months or years later.
- Some significant harm to communities results from this scenario.
- Right now, there are limited tools available to quickly and effectively intervene and stop those patterns of behavior before a criminal adjudication. So, we are working to address this issue and consider what legal mechanisms exist to intervene faster and more effectively when that repeat criminal conduct occurs—to apply greater legal pressure for behavioral change up front.
- Some portion of this repeat criminal behavior stems in part from untreated substance use disorder. So, the additional question arises of whether innovation in pretrial tools can be used as a faster, more effective, and enforceable pipeline into treatment at the time of arraignment or thereabouts. The hope is that there is some common-sense element to this from which policymakers could develop consensus.

- This particular issue of repeat offenders is part of a broader rethinking of how the state is responding to the so-called third wave of the opioid crisis, fentanyl.
- One model developed for the Stanford-Lancet Commission on the North American Opioid Crisis projects that this decade twice as many people will die from an overdose in the United States than in the past two decades combined, if no new action is taken to address the epidemic. These deaths in this decade are driven by fentanyl.ⁱ
- As I recently informed some of your colleagues, fentanyl is now pervasive in the illicit opioid market in Vermont, found in 100% of the glassine bags tested by the Vermont Forensic Lab in 2022. You should also be aware that in 2023, 56% of heroin/fentanyl cases also contained xylazine, up from 12% in 2021.ⁱⁱ
- Interdiction efforts serve to disrupt this market, but sometimes that disruption is only temporary, and demand continues unabated. There is too much money to be made: the head of Vermont’s Narcotics Investigation Unit estimates that some traffickers can make \$20K per week selling synthetic opioids in Vermont.
- As another Commission report states: “the pull of demand continues to drive the supply of synthetic opioids.” And “synthetic opioids offer economic and tactical advantages that allow criminals to vastly outpace enforcement efforts.”ⁱⁱⁱ
- The result of this scenario is a rethinking about the most effective ways to reduce demand for synthetic opioids, especially when people with untreated substance use disorders encounter the criminal justice system. This topic falls squarely at the intersection of public health and public safety. We are discussing ways for the government to more proactively ensure that people stop problematic drug use and obtain treatment when problematic drug use results in repeat criminal behavior. The example I gave above—more legal pressure and a faster, more effective, and enforceable pipeline into treatment for repeat offenders at the time of arraignment—is part of that conversation.
- This is of course a significant public policy issue, and it seems that a serious, tri-branch consensus building process is the best approach to tackling it. It is no doubt more complex and nuanced than the broad strokes I discussed today. But I know I, Commissioner Morrison, and everyone else we work with at the Vermont State Police and elsewhere, are willing partners to collaborate on solutions. Thank you all for your time today and I am happy to discuss these topics further.

ⁱ Stanford-Lancet report calls for sweeping reforms to mitigate opioid crisis (February 2, 2022), <https://med.stanford.edu/news/all-news/2022/02/stanford-lancet-report-opioid-crisis.html>. Stanford-Lancet Commission on the North American Opioid Crisis report available for download at <https://opioids.stanford.edu/publications-and-media>.

ⁱⁱ Data provided by the Vermont Forensic Lab.

2021: 12.5% of heroin/fentanyl cases contained xylazine (partial year)

2022: 43% of heroin/fentanyl cases contained xylazine (full year)

2023: 55.8% of heroin/fentanyl cases contained xylazine (up to 12/22/2023)

Year	2015	2016	2017	2018	2019	2020	2021	2022
% Cases containing Heroin	100	100	100	100	100	100	58.65	44.32
% Cases containing Fentanyl	8.48	9.75	25.39	42.74	59.48	76.97	98.65	100

ⁱⁱⁱ Commission on Combating Synthetic Opioid Trafficking, Final Report at xii and xiii, available at https://www.rand.org/pubs/external_publications/EP68838.html