

# Congress of the United States

Washington, DC 20515

June 9, 2021

The Honorable Merrick B. Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Mr. D. Christopher Evans  
Acting Administrator  
U.S. Drug Enforcement Administration  
8701 Morrisette Drive  
Springfield, VA 22151

Dear Attorney General Garland and Acting Administrator Evans:

Thank you for your response, dated May 11, 2021, to our letter about the temporary scheduling authority for fentanyl analogues. You indicated your gratitude to Congress for extending the life-saving fentanyl-related substances (FRS) scheduling authority until October 22, 2021. Although we supported lengthier and more permanent solutions to address FRS, we are grateful that this authority did not lapse.

Your May 11 response noted how scheduling FRS keeps the Department of Justice (DOJ) and Drug Enforcement Administration (DEA) from being in a “reactive mode” and that with class scheduling, “drug trafficking organizations . . . have little incentive to invent new FRS for the purpose of evading federal law enforcement.”<sup>1</sup> We are encouraged that DOJ and DEA believe scheduling FRS is critical in combating fentanyl abuse, overdose deaths, and preventing drug trafficking organizations from spreading poison in our communities. However, we were disappointed that your response failed to answer the four questions posed. Specifically, we asked direct questions about the Biden Administration’s position on scheduling FRS; the impact that a lapse in authority would have on the U.S. opioid crisis; how scheduling FRS has positively affected law enforcement’s ability to seize these dangerous drugs; and how permanent scheduling of FRS would affect research.

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<sup>1</sup> Letter from Joseph Gaeta, Deputy Assistant Attorney Gen., Dep’t. of Justice, to Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary and Sen. Charles E. Grassley, Ranking Member, S. Comm. on the Judiciary (May 11, 2021).

We also requested a staff-level briefing on this serious issue. As of June 8, 2021, we have yet to receive outreach from the DOJ or DEA about setting up a staff-level briefing. We cannot overstate how important it is for Congress to be fully aware of ongoing interagency conversations about how to schedule FRS on a permanent basis. We have received information that there has been outreach and communication only with the majority staffs of the House and Senate Judiciary Committees. However, without intentional bipartisan and bicameral engagement from the Administration, we will be left with another short-term extension instead of legislating a permanent solution. We cannot and should not legislate such a critical issue on temporary bases.

We look forward to your detailed response to our original four questions posed in the March 25 letter, and hearing back about proposed dates for a staff-level briefing on this issue.

Sincerely.

  
Charles E. Grassley  
Ranking Member  
Senate Committee on the Judiciary

  
Jim Jordan  
Ranking Member  
House Committee on the Judiciary

Cc: The Honorable Dick Durbin  
Chairman  
Senate Committee on the Judiciary

The Honorable Jerrold L. Nadler  
Chairman  
House Committee on the Judiciary