



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0140

March 16, 2022

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

Dear Attorney General Garland,

Our country is under siege by fentanyl. Under federal law, distributors and dealers that cause death are subject to a mandatory statutory penalty. A person convicted of dealing fentanyl where “death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life.” 21 U.S.C. § 841(b)(1)(C). Yet federal prosecutors are not bringing enough cases pursuant to this statute.

In a review of sentencing data for fiscal year 2019 by the United States Sentencing Commission, only 54 fentanyl dealers and 19 fentanyl analogue dealers were subjected to the 20 year mandatory minimum for dealing that causes death. United States Sentencing Commission, Fentanyl and Fentanyl Analogues at 36 (Jan. 2021) (“USSC Report”). Meanwhile many tens of thousands of Americans lose their lives every year to fentanyl.

High profile cases, such as the charges brought against the dealer in the case of actor Michael K. Williams, are not enough. Federal prosecutors must respond to the unprecedented threat of fentanyl across the board.

In fiscal year 2019, there were convictions of nearly 20,000 drug trafficking offenders, including just 1,119 fentanyl and fentanyl analogue offenders. USSC Report at 19. This is a particularly low number when fentanyl is such a great threat.

Congress has enacted laws to ensure maximum deterrence against dealers of death, including those who push fentanyl. That is why, today, I call upon you to reevaluate your enforcement philosophy to provide for greater focus on fentanyl prosecutions.

I urge you to take every practical step to deter offenders and provide for the maximum penalties for fentanyl crimes under federal law.

Sincerely,

A handwritten signature in blue ink that reads "Patrick Morrissey". The signature is written in a cursive, slightly slanted style.

Patrick Morrissey
West Virginia Attorney General