

Using the Department of Defense to Halt the Smuggling of Illicit Fentanyl from Mexico Across the Southwest Border

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KEY TAKEAWAYS

President Biden has refused to take any serious steps to halt the Mexican cartels from smuggling fentanyl into this nation.

Congress cannot enforce the laws itself, but it can pass legislation that would help to address this problem.

The National Defense Authorization Act and Department of Defense Appropriations bill will offer Members of Congress a chance to address the fentanyl crisis.

President Joe Biden has declared an end to the Covid-19 pandemic. He has not, however, declared an end to the fentanyl epidemic, nor could he. Its problems—particularly, poisoning of the nation’s youth—continue to plague the nation. President Biden deserves the blame for many of those problems because he has refused to take any serious steps to halt the Mexican cartels from smuggling fentanyl across the southwest border into this nation. He could close the border—a drastic step, to be sure, but a step that would save lives—or he could enforce the immigration laws—a smaller step, but one that the Constitution actually demands he take under the Article II directive that “The President...shall take Care that the Laws be faithfully executed.”

This paper, in its entirety, can be found at <https://report.heritage.org/ib5319>

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Questions for President Biden

The nation is entitled to ask Mr. Biden, “Mr. President, how many Americans must die before you stop the cartels from smuggling fentanyl into this nation? One million? Ten million? Twenty-five million? More?” The nation should also demand that he answer the question. The nation also should not let him get off the hook by refusing to answer that question directly, by gaslighting the public in the form of irrelevant statistics, by offering meaningless promises to “Watch me,” or by placing the blame on Vice President Kamala Harris’s shoulders, because she has proven that she cannot or will not do anything to alter the Administration’s matador defense at the border (a “defense” in which federal agents pretend to make an effort to stop the oncoming charge of illegal immigrants only to wave them on by). The public must make him *answer that question*.

Perhaps the reason President Biden has not done anything is that he believes that the people who have died from illegal fentanyl use are from the same “basket of deplorables” that Hilliary Clinton derided during her second presidential campaign. In fact, unless President Biden can come up with a reasonable explanation as to why he threw in the towel before the fight even began, America is entitled to conclude that *that is exactly what explains his dereliction of duty*.

Congress cannot enforce the laws itself, but it can pass legislation that would help to address this problem. Sometime later this year, Congress will vote on two relevant and important pieces of legislation: the National Defense Authorization Act and the Department of Defense Appropriations bill. Each one will serve as a vehicle for Congress to address the fentanyl problem. At a minimum, they offer members of Congress a chance to say whether they want to do what is in their power to stop fentanyl-caused fatalities regardless of whether the President takes seriously his obligation to enforce the law.

What Congress Should Do

Among the steps that Congress can require are the following:

- **Authorize and fund** a joint effort between the Defense Intelligence Agency and the Department of the Treasury to investigate the existence and extent of China’s money laundering on behalf of the drug-trafficking profits made by the Mexican cartels.

- **Authorize and fund** a joint effort by the Defense Intelligence Agency and the other components of the Intelligence Community to analyze the existence and amount of shipping of fentanyl precursor chemicals into Mexico for the manufacturing of that drug.
- **Authorize and fund** the creation along the southwest border of “Border Training Zones” in which U.S. Special Operations Forces teams train and assist Drug Enforcement Administration agents and Border Patrol officers in the investigation of smuggling activity from Mexico, and amend the Posse Comitatus Act to allow for such support activities.
- **Authorize and fund** a pilot program in which U.S. Special Operations Forces teams assist Drug Enforcement Administration agents and Border Patrol officers in the apprehension of smugglers, and amend the Posse Comitatus Act to allow for such support activities.
- **Authorize and fund** a task force to assist Drug Enforcement Administration agents in the inspection of all aircraft that take off from China, stop in the United States to refuel, and are scheduled to continue to Mexico, and amend the Posse Comitatus Act to allow for such support activities.
- **Authorize and fund** the U.S. Navy to train and assist the Mexican Navy in the interdiction of ships transporting illicit drugs or precursor chemicals to Mexico.
- **Authorize and fund** the Defense Advanced Research Projects Agency to develop technological means of detecting fentanyl in unopened containers, packages, parcels, and the like.
- **Direct** the Secretary of Defense to prepare classified and unclassified versions of his findings regarding the willingness of the Mexican military and government to assist the United States in stopping the cartels from illegally smuggling fentanyl into the United States.
- **Direct** the Secretary of Defense to assist the Drug Enforcement Administration in the preparation of classified and unclassified versions of the latter’s findings on each of the above subjects by December 31 of this year (followed by annual reports due on the same date) and make public in January 2024 the unclassified versions of each report.

These are only some of the steps that Congress can authorize or require the federal government to take before the end of 2023. There likely are others that also could be done through one of the bills noted above. But some real steps must be taken to save the lives that otherwise would be lost to fentanyl. An Alfred E. Neuman–like grin just won’t cut it.

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