



Joint Committee on the Judiciary
September 16, 2015
Testimony of Attorney General Maura Healey

Chairmen Brownsberger and Fernandes, members of the Committee, thank you for the opportunity to testify today.

As you know, we're in the midst of a public health crisis in Massachusetts. Heroin and prescription drugs are devastating families across our state, taking more lives than car accidents and guns combined. We need to attack the problem from all angles.

The epidemic we're facing has been made even more lethal by the recent increase in the presence of fentanyl on our streets.

Fentanyl is a synthetic opioid, and the most powerful one available for medical use. It is 50 to 100 times more potent than morphine and 30 to 50 times more potent than heroin.

Increasingly, predatory drug traffickers are mixing fentanyl with heroin – a mixture that is potentially lethal, even in very low doses.

The growing prevalence of fentanyl is alarming. In 2013, the Massachusetts State Police drug lab found just five cases of seized drugs that tested positive for fentanyl. By 2014, the number of fentanyl positive samples had increased exponentially, to 170. As of this August, the number is already at 473.

Just over a month ago, I stood alongside our partners in law enforcement to announce the arrest of an individual allegedly involved in an extensive fentanyl and heroin packaging and distribution operation involving more than \$1 million worth of drugs, which included almost one kilogram of fentanyl.

But under existing law, drug traffickers like the defendant in that case can only be charged with manufacturing, distributing, or possessing fentanyl (M.G.L c. 94C § 32A), not with trafficking, regardless of the quantity of fentanyl they are caught with. The penalty does not fit the crime.

I filed H. 3755, *An Act Relative to the Trafficking of Fentanyl*, with Chairman Fernandes to directly address that gap in our laws, by creating a specific offense of fentanyl trafficking.

Specifically, H. 3755:

1. **Sets** the threshold of fentanyl trafficking at more than 10 grams.
2. **Includes** any derivative of or mixture containing fentanyl.
3. **Authorizes** incarceration in state prison up to 20 years (same as cocaine and methamphetamine).
4. **Does not include** a mandatory minimum or a House of Correction (HOC) incarceration sentence option.

We have to tackle this public health crisis from all angles, including by focusing on prevention and education for our kids and breaking down barriers to treatment. But we also need to take the major traffickers of these dangerous drugs off our streets.

H. 3755 will help us do just that.

I also want to briefly mention two other bills before you today.

First, I want to express my support for H. 1290, *An Act improving the accuracy of eyewitness identification procedures*, sponsored by Chairman Fernandes and supported by the Massachusetts Chiefs of Police Association and the Massachusetts Major City Chiefs.

Errors by eyewitness are believed to be the leading cause of wrongful convictions in the United States.

H. 1290 would require that the police department of any city or town of 2,000 or more residents adopt uniform policies on eyewitness identification.

I know so many of our police departments, as well as the State Police and Transit Police, are already using written policies.

But we should make sure that practice happens statewide.

Second, I support thoughtful and necessary updates to our wiretap law.

We need to remove the connection to organized crime, update the list of designated offenses, and redraft the definition of what devices are subject to a wire interception warrant. We also need to maintain proper judicial oversight and privacy protections.

Our team at the Attorney General's Office looks forward to working with you as you consider a commonsense update to that outdated law, and as you review the other important bills I've mentioned today.

I urge you to report these bills out favorably, and I thank you again for the opportunity to testify.