

SUBJECT: SAFETY ADVISORY AND PROTOCOLS FOR FENTANYL AND CARFENTANIL

PURPOSE

This policy 1) discusses the toxicity and lethality of the drugs fentanyl, carfentanil, and their derivatives; 2) establishes a general ban on the entry of these substances into courthouses, including a ban on the entry of such substances in evidence; and 3) outlines protocols to reduce the potential for accidental exposure and for response to incidents where the presence of these substances in the courthouse environment is suspected.

This policy was drafted after taking into account the risks posed to the public by the admission of fentanyl and carfentanil into the courthouse environment, the public's interest in the fair resolution of cases, the rights of defendants, and judicial resources.

SCOPE

This policy applies to all Trial Court staff and judicial officers.

FENTANYL AND CARFENTANIL

Fentanyl and carfentanil are extremely potent and toxic synthetic opioids that are being used as adulterants in heroin and other controlled substances or passed off as pure heroin. The Massachusetts State Police Laboratory has confirmed the presence of both fentanyl and carfentanil in drug evidence tested by the lab. Fentanyl can be up to fifty times as potent as heroin and carfentanil can be up to 5,000 times as potent. Both substances can come in a variety of forms, including powder, pills, capsules, liquid, or can be contained on blotter paper. The substances can be absorbed into the body orally, through mucous membranes, inhaled, or through the skin or eyes. It has been determined that approximately 2-3 milligrams of fentanyl – the equivalent of five to seven individual grains of table salt – can induce respiratory depression, arrest, and possibly death. In the event that a person has ingested fentanyl or carfentanil and is suffering from an opioid overdose, naloxone, commonly known as “Narcan,” if immediately administered, can reverse an opioid overdose. Depending on the drug's purity and potency, multiple doses of naloxone may be required to stabilize the victim.

POLICY

Given the danger that even a small amount of these substances poses, the following policy measures are effective immediately:

1. Substances containing any amount of fentanyl or carfentanil are banned from entry into the courthouse, except as provided in paragraphs 2 and 3 hereof. This includes substances that have been collected as evidence and which would otherwise be entered in evidence at a hearing or trial. Parties who seek to present the appearance of a substance containing fentanyl or carfentanil to a fact finder must do so through means other than introduction of the actual substance, such as a stipulation, photographs, video, or witness testimony.

2. Persons who have a valid prescription for a medication containing fentanyl and who have a medical need to use such medication during the court day, will be permitted to bring their medication into the courthouse. Court staff taking notice of a prescription medication containing fentanyl will take precautions to avoid contact and exposure.
3. Deviation from the general ban on fentanyl or carfentanil from being entered as evidence may occur when a judge determines that admission of the substance as evidence is necessary for the Commonwealth to prove its case or to protect a defendant's constitutional right to a fair trial. . If a judge determines it necessary that a party be permitted to bring such substances into a courtroom, the substances shall be packaged and handled in the manner approved by the Drug Enforcement Administration (DEA); shall be handled while in the courthouse – including presentation of the substances in a courtroom – only by individuals who have been trained to handle fentanyl and carfentanil; shall not be permitted to be handled by jurors, but, even during jury deliberations, shall be presented to deliberating jurors for observation by an individual trained to handle fentanyl and carfentanil; and shall not under any circumstances be accepted for safekeeping by a clerk of the court, but shall immediately be returned after presentation in the courtroom to the officer or agent of the law enforcement agency that has custody of the substances. Determination that fentanyl, carfentanil, or its derivatives will be permitted to enter a courthouse shall be made in advance of the hearing or trial at which the substance will be presented. Court security shall be notified in advance of the date on which the substance will be entering the courthouse, the name of the case for which it is being brought into the courthouse, how the substance will be transported and who will be transporting it the courtroom in which the substance will be presented, and when the substances has been taken out of the building.
4. Because fentanyl and carfentanil take many different forms and appear as common street-level controlled substances, any controlled substance that a party intends to introduce in evidence at a hearing or trial will not be permitted into a courthouse unless the substance has been chemically analyzed and determined not to contain fentanyl or carfentanil. A judge shall not permit a controlled substance to enter a courthouse until he or she has reviewed the certificate of analysis and is satisfied that the substance does not contain fentanyl or carfentanil.
5. Given the potency and potential lethality of fentanyl and carfentanil, any contact with these substances must be treated as a hazardous material (HAZMAT) situation and should be assessed only by individuals who have been trained to handle hazardous materials.
6. Because the potential exists that in-custody defendants or members of the public entering a court house could introduce fentanyl and carfentanil into the courthouse environment, and because fentanyl and carfentanil can appear as white or brown powder, all Trial Court personnel must be extremely cautious of any white powder and consider it a hazardous material. Any Trial Court staff member observing unidentified white powder should take immediate action to avoid personal exposure, limit public exposure, and isolate the substance from other court personnel or members of the public. Court security

personnel should then be notified immediately. Court officers shall immediately notify the appropriate local first responder agency by calling 911. Court officers will also isolate the substance and avoid personal exposure. Only persons with appropriate personal protective equipment (PPE) shall be allowed in proximity to the suspect material. Court Officers will be prepared to administer first aid to those suspected of exposure to fentanyl or carfentanil.

EXPOSURE PROTECTION AND RESPONSE PROTOCOL

1. DO NOT HANDLE ANY UNIDENTIFIED WHITE POWDER; ASSUME IT TO BE HAZARDOUS MATERIAL (HAZMAT).
2. Notify a Court Officer immediately when an unidentified substance is encountered. Take immediate action to avoid exposure and isolate the substance.
3. All Trial Court personnel should understand the following:
 - a. small amounts of fentanyl and especially carfentanil can be lethal.
 - b. exposure can occur through air with inhalation into the lungs, or absorption through the skin and mucous membranes of the eyes, mouth and nose. Therefore, do not disturb or touch any unidentified substance and move safely away from its location
 - c. recognize the symptoms of an opioid overdose: confusion, lethargy, pinpoint pupils, diminished breathing, or not breathing at all. Immediately call for Security.
 - d. Naloxone is effective in treating the effects of a fentanyl or carfentanil overdose. Time is of the essence in these matters, so get help from a court officer immediately. Court officers are able to administer naloxone and CPR.
4. All Court officers/Security staff should understand and be prepared to do the following:
 - a. implement Fentanyl/HAZMAT response protocols by notifying first responders via “911” call.
 - b. take measures to protect against personal exposure to the substance and protect court users and staff from it.
 - c. provide first aid to persons suspected of exposure, including performing CPR and administering naloxone. Emergency medical service will be notified via “911” where personal exposure to suspected fentanyl, carfentanil or a derivative is possible.