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### Criminal Law

# Tougher sentences failing to curb fentanyl trade

By AdvocateDaily.com Staff



Although the British Columbia Court of Appeal recently spoke in favour of stricter sentences for fentanyl dealers in light of the current rise in deaths due to the drug, Toronto criminal lawyer [Jordana Goldlist](#) tells [The Lawyer's Daily](#) that harsher sentences will not curtail the crisis.

As The Lawyer's Daily reports, in *R. v. Smith* 2017 BCCA 112, the Crown was appealing a six-month sentence given to a first-time offender for street-level trafficking of fentanyl, arguing that the sentencing judge erred in principle.

On appeal, the majority of judges agreed with the sentencing range proposed by Justice Mary Newbury of between 18 to 36 months. However, even though the number of deaths due to fentanyl increased dramatically in B.C. between the time of arrest and the time of sentencing, says the article, the appeal was dismissed as the court noted that the sentence was not unfit "given the circumstances that existed when the crime was committed."

Justice Newbury dissented as she would have substituted an 18-month sentence, says the article.

As Goldlist, principal of [JHG Criminal Law](#), explains in the article: "I do not think that anyone who is prepared to use this drug will consider the possible sentence they may receive if caught with it.

"Anyone who is so deep into their addiction that they would use fentanyl is not worried about jail."

Goldlist says she hadn't encountered any fentanyl cases until about a year ago, but is now dealing with two or three at any given time. The sentencing range, she says, seems to increase on a regular basis, but has no effect on the trade of fentanyl.

"The only institution to blame for the current crisis is Big Pharma," says Goldlist.

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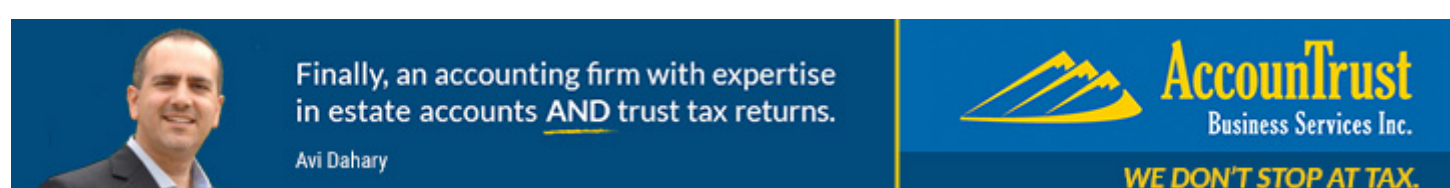
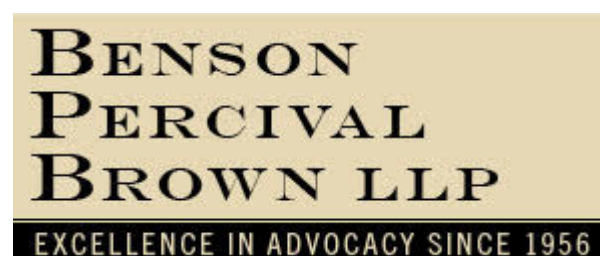
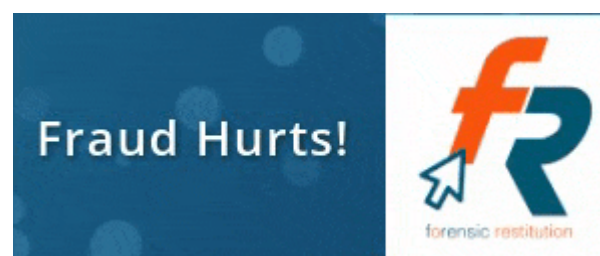
“Fentanyl was not designed or created as a street drug. It started as a prescribed narcotic to treat pain and it continues to be prescribed even in the face of its unbelievably high rates of misuse, abuse and addiction ... and as long as people are heavily addicted, dealers will find a way to sell it on the black market. The law, through enforcement or imprisonment, will not curb this any more than it has curbed the flow of cocaine or crack or heroin,” she adds.

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