

United States Senate

Washington, DC 20510-1304

August 8, 2019

The Honorable William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Barr:

I write to urge the Department of Justice to bring all the resources it has to bear to investigate the role of pharmaceutical companies and their executives in the opioid epidemic.

Our nation is in the midst of a prescription opioid and heroin crisis that is destroying the lives of many of our neighbors and family members. In 2017, the pharmaceutical industry produced 13 billion opioid doses—enough for a three week supply for every American adult. That sheer industry excess has fueled the addiction epidemic, which has created a market for cheaper and more potent alternatives. As you know, four out of five new heroin users began their addiction with prescription painkillers. Recent *Washington Post* reporting on the 76 billion opioid pills shipped between 2006 and 2012 shows that opioid distributors and manufacturers ignored persistent red flags that those pills were being sold in apparent violation of federal law and diverted to the black market.

That this conduct occurred in a corporate boardroom—not on the streets—does nothing to distinguish it from illegal drug trafficking. This epidemic was not ignited by some runaway virus, it was sparked by greedy decisions by an opioid aristocracy to flood our streets with addictive prescription drugs.

The Department of Justice recently indicted two pharmaceutical companies, Rochester Drug Co-Operative (RDC) and Miami-Luken, and their executives. The indictments allege that the companies violated federal narcotics laws by distributing controlled substances—including dangerous opioids like oxycodone and fentanyl—that the companies knew were being sold and used illicitly.

RDC has admitted its guilt. The scope of the company's criminal conduct is stunning. From 2012 to 2016, RDC distributed 119,757,980 tablets of oxycodone and 6,705,200 dosages of fentanyl.¹ It has admitted to distributing these “substances to pharmacies that it knew were dispensing controlled substances for illegitimate purposes, and to pharmacies that it should reasonably have known and intentionally avoided confirming were dispensing controlled

¹ Deferred Prosecution Agreement, *United States v. Rochester Drug Co-Operative, Inc., et al.*, ¶ 5 (Apr. 22, 2019).

substances for illegitimate purposes.”² RDC ignored warnings from its own compliance department that deadly controlled substances were being diverted.³ Not only that, RDC intentionally lied to the Drug Enforcement Administration (DEA) about its due diligence process,⁴ and knowingly failed to file suspicious order reports with the DEA. Stuningly, between 2012 and 2017, RDC only filed four suspicious order reports with the DEA, when it should have reported hundreds of suspicious orders.

RDC is not just one bad apple. The industry is rotten. The volume of pills the pharmaceutical industry distributed skyrocketed as the opioid epidemic surged. As these drugs took their toll and pharmaceutical revenues soared, the industry did not alter its behavior. Data from the DEA’s database shows how the industry flooded the United States with powerful painkillers. Thousands of lawsuits that have been filed against pharmaceutical companies, distributors, and executives in recent years are revealing that for many, the only thing that mattered was profit.

I urge you to expand the Justice Department’s investigative focus, if you have not already, to include other pharmaceutical companies and executives. I am not in a position to determine if any pharmaceutical company executives committed criminal conduct. That is ultimately the job of the Justice Department and the courts. But there are serious questions about whether senior executives at these companies illegally distributed the deadly substances at the heart of the opioid epidemic—and, if that is the case, it is imperative that the Justice Department investigate, and if appropriate, prosecute the individuals responsible for this criminal conduct.

The RDC and Miami-Luken indictments are good first steps towards securing justice for the millions of victims of the opioid crisis. This important work must continue, so that corporate bad actors are placed on clear notice that their wealth, power, and privilege will not protect them from prosecution.

Thank you for your time and consideration. I look forward to a prompt reply.

Sincerely,



Richard J. Durbin
United States Senator

² *Id.* ¶ 8.

³ *Id.*

⁴ *Id.* ¶ 6.