

United States Senate

WASHINGTON, DC 20510

August 22, 2018

Acting Administrator Uttam Dhillon
United States Drug Enforcement Administration
8701 Morrissette Drive
Springfield, VA 22152

Dear Acting Administrator Dhillon,

We write to request information regarding contacts between the Drug Enforcement Administration (DEA) and Giuliani Partners related to Purdue Pharma, including contacts pertaining to the criminal investigations into the fraudulent marketing of OxyContin, a powerful prescription opioid. As our nation's opioid epidemic continues to grow, it is important to understand whether any conflicts of interest improperly influenced agency decision-making to the harm of future victims.

The United States continues to combat the worst drug overdose epidemic in our history. An estimated 2.6 million Americans suffer from opioid use disorder and more than 42,000 people died from opioid-involved overdoses in 2016 alone, with early estimates for 2017 showing another dramatic increase. A contributor to the origins of this epidemic was the deceptive and fraudulent marketing of OxyContin by Purdue Pharma, which intentionally misled the public for over a decade about the drug's potential for abuse and addictive impacts.

According to reporting from the *New York Times*, federal prosecutors from the U.S. Attorney's Office for the Western District of Virginia recommended indicting several of Purdue Pharma's top executives on felony charges after a four-year investigation and a review of several million of its internal documents.¹ In a 2006 internal report, prosecutors concluded Purdue Pharma knew of significant abuse of OxyContin but concealed this information and used numerous false claims to market the drug.² Instead of taking the case to trial and prosecuting Purdue Pharma and its executives, top political appointees at DOJ reportedly blocked these indictments.³

¹ Barry Meier, "Origins of an Epidemic: Purdue Pharma Knew Its Opioids Were Widely Abused," *New York Times* May 29, 2018 available at <https://www.nytimes.com/2018/05/29/health/purdue-opioids-oxycontin.html> .

² Id.

³ Id.

It has also been reported that Purdue Pharma hired Rudy Giuliani and his consulting firm Giuliani Partners in 2002 to help with lobbying and to influence officials at DOJ and other federal agencies.⁴ Giuliani represented Purdue Pharma in negotiations with DOJ in 2006, convincing its political appointees to reject career prosecutors' recommendations and accept a guilty plea to misdemeanor charges of intentionally "misbranding" OxyContin. The company and its executives paid a fine of \$640 million in 2007. According to John Brownlee, the U.S. Attorney who led the OxyContin probe, Giuliani successfully negotiated a provision in the plea agreement assigning fault to Purdue Pharma's holding company, Purdue Frederick, allowing Purdue Pharma to continue to do business with federal government programs such as Medicaid, Medicare, and the Veterans Administration Health system.⁵ Giuliani also successfully negotiated a second concession that immunized Purdue from further prosecution for any fraudulent activity beyond the 2001 date agreed to in the plea agreement, even though Purdue's fraudulent activity continued into 2007.

Public reports also indicate that Giuliani participated in two meetings between Purdue officials and Asa Hutchinson, then head of DEA, when the agency was investigating the company.⁶ Several top staffers at DEA reportedly recommended that the agency impose severe sanctions against Purdue, including possible restrictions on how much OxyContin it could make.⁷ According to reports, after the meetings with Giuliani, Hutchinson asked to be briefed several times on the inquiry into Purdue. Instead of DEA placing sanctions on Purdue, DEA fined Purdue \$2 million for record keeping violations and Purdue admitted no wrongdoing. It appears Purdue was able to negotiate a substantially reduced fine from the original \$20 million recommended by Laura Nagel, the DEA official who led the agency's investigation into Purdue's manufacturing of OxyContin. While Giuliani was negotiating on behalf of Purdue Pharma with DEA, it has been reported that he was also helping the agency raise money for a DEA museum.⁸

These facts suggest DEA officials may have agreed to an inappropriately lenient treatment of Purdue Pharma simply because it was represented by Mr. Giuliani. The public health consequences of that decision may have been immense, and deserve greater scrutiny by Congress and DEA. In order to better understand the roles pharmaceutical companies, law enforcement, and hired consultants played in the federal government's response to the opioid crisis we ask that you provide answers to the following questions by September 21, 2018:

⁴ Barry Meier and Eric Lipton, "Under Attack, Drug Maker Turned to Giuliani for Help," *New York Times*, Dec. 28, 2007 available at <https://www.nytimes.com/2007/12/28/us/politics/28oxycontin.html>

⁵ Beth Macy, "'They Were All Lawyered Up and Rudy Giuliani'd Up,'" *Politico*, Aug. 5, 2018 available at <https://www.politico.com/magazine/story/2018/08/05/oxycontin-purdue-pharma-federal-investigation-dopesick-excerpt-219158>

⁶ Barry Meier and Eric Lipton, "Under Attack, Drug Maker Turned to Giuliani for Help," *New York Times*, Dec. 28, 2007 available at <https://www.nytimes.com/2007/12/28/us/politics/28oxycontin.html>

⁷ Id.

⁸ Id.

1. Did Rudy Giuliani, or other representatives of his consulting firm Giuliani Partners, communicate with DEA regarding any actions the agency was considering taking against Purdue Pharma pertaining to OxyContin? If so, please provide a detailed description of these communications, including the dates and individuals involved.
2. Were any DEA officials involved in negotiations with Giuliani aware of his efforts to raise money for a DEA museum? What steps were taken to ensure that Giuliani's efforts did not improperly influence DEA's enforcement actions?
3. Did any employee of DEA ever raise concerns regarding potential conflicts of interest caused by Giuliani Partners' simultaneous representation of Purdue Pharma and connection to other projects within the agency? If so, please provide details of those concerns.
4. How was DEA's decision not to follow the recommendations of top agency officials and place severe sanctions on Purdue Pharma, such as placing limits on how much OxyContin could produce, or accept a substantially lower fine than originally recommended by Laura Nagel, consistent with DEA policies and procedures?

We also request that you produce the following documents by September 21, 2018:

1. All documents, including internal and external communications, relating to recommendations made by DEA officials to impose sanctions on Purdue Pharma, including possible restrictions on how much OxyContin it could make.
2. All documents, including internal and external communications, relating to Giuliani Partners' contacts with DEA on the investigation into Purdue Pharma and OxyContin.
3. All documents relating to DEA's efforts to raise funds for a museum in consultation with Rudy Giuliani and Giuliani Partners, as referenced in the 2007 *New York Times* article.

Thank you for your attention to this important matter and we look forward to your prompt response.

Sincerely,



Margaret Wood Hassan
United States Senator



Sheldon Whitehouse
United States Senator