

United States Senate

WASHINGTON, DC 20510

August 22, 2018

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Sessions,

We write to request information regarding contacts between the Department of Justice (DOJ) 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 that 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.

While Giuliani Partners was negotiating with DOJ, it has been reported that Giuliani Partners was also part of a \$1 million consulting contract with DOJ to provide advice on reorganizing its major drug investigations, and Mr. Giuliani was personally raising money for a Drug Enforcement Administration (DEA) museum.⁶ These facts suggest DOJ 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 DOJ. 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:

1. Did Rudy Giuliani, or other representatives of his consulting firm Giuliani Partners, communicate with DOJ about Purdue Pharma as part of settlement negotiations between DOJ and Purdue Pharma regarding Purdue's fraudulent marketing of OxyContin? If so, please provide a detailed description of each of these communications, including the dates and individuals involved.
2. Were any DOJ officials involved in the 2006 negotiations aware of Giuliani's consulting contract to advise DOJ on reorganizing its major drug investigations, or fundraising for a DEA museum? What steps were taken to ensure that Giuliani's other relationships with DOJ and its components did not improperly influence plea negotiations?

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>

3. Did any employee of DOJ ever raise concerns regarding potential conflicts of interest caused by Giuliani Partners' simultaneous representation of Purdue Pharma and consulting work for DOJ? If so, please provide details and documentation surrounding those concerns and any responses thereto.
4. How was DOJ's decision to assign responsibility exclusively to Purdue Frederick, and not Purdue Pharma, consistent with DOJ policies and procedures?

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

1. A copy of the DOJ report detailing that Purdue Pharma knew of significant abuse of OxyContin after the drug's introduction in 1996 and concealed that information, as referenced in the 2018 *New York Times* article, and all related documents.
2. All documents, including internal and external communications, relating to the decision to enter into a plea agreement with Purdue executives instead of pursuing charges as recommended by prosecutors.
3. All documents, including internal and external communications, relating to Giuliani Partners' contacts with DOJ on the investigation into Purdue Pharma's fraudulent marketing of OxyContin.
4. All documents relating to the DOJ's consulting contract with Giuliani Partners on reorganizing major drug investigations, 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