

Testimony of Siobhan Reynolds
Founder and President Pain Relief Network
By Submission To The Chairman
Of The Senate Committee on The Judiciary
Senator Patrick Leahy of Vermont

Hearing before the Senate Judiciary Committee
“Evaluating the Propriety and Adequacy
of the Oxycontin Criminal Settlement”

Tuesday, July 31, 2007
Dirksen Senate Office
Building Room 226 2:30 p.m.

Mr. Chairman and Senators:

Thank you for taking my testimony on the propriety of the criminal settlement between the United States Department of Justice and Purdue Pharmaceuticals. Pain Relief Network has opposed the United States Department of Justice crackdown on the pain treatment community and has had ample opportunity to witness the actions of both the Department of Justice and Purdue Pharmaceuticals. Our conclusion is not flattering to the Department of Justice and forms the basis for our formal request, hereby submitted, that this Committee convene hearings into the Justice Department's campaign against medical pain management. We take no position as to whether or not Purdue's executives have committed any crimes and maintain that we could not know the truth under current circumstances. The plea deal in question is, indeed, a criminal settlement.

Purdue Pharma was coerced, under threat of destruction by the U.S. Department of Justice (USDOJ), into pleading guilty to charges that their drug, Oxycontin, was "more addictive" than they had claimed, the government alleging that the company failed to inform both doctors and the public of this information when it came available.

The problem for Americans in pain, and for the country in general, is that this private deal creates, if you will, a "fact" on the public record that is not factual, a "fact" that severely prejudices the interests of patients in pain.

Whether Purdue is in reality guilty of misinforming the public as to the "abusability" of the medicine is not in serious dispute. Indeed, they seem to have promoted Oxycontin as though it were less abusable than other opioid medicines, even when they had evidence that recreational users had figured out how to defeat the time release mechanism. This attempt to distinguish Oxycontin from other opioid pain medicines was certainly ill-advised-foolish really-because, all opioid drugs are abusable.

The lawlessness that we should be concerned about, however, is not Purdue's. Rather, we should all be gravely troubled by the actions of the USDOJ, whose institutional character in many respects determines whether the American people are actually a free people or not. Most unfortunately, the USDOJ appears to have lost all respect for the sanctity of our court system and for the rule of law itself. While enjoying a conviction rate of over 97 percent and happily availing itself of its power to compel testimony from so-called "cooperating witnesses", this is a department that has taken to securing convictions in order to send political messages, rather than restricting itself to enforcing the law.

Over the last five or so years, US DOJ has engaged in a brutal and systematic campaign to intimidate medical practitioners out of prescribing supposedly legal opioid pain medications. They have imprisoned many skilled and compassionate physicians on trumped up charges, for sentences amounting to three decades or more, (See the New York Times Magazine Cover article, When Is A Pain Doctor a Drug Pusher, June 17, 2007....) and have caused thousands more physicians to stop treating their patients' serious pain.

This effort has caused a society-wide breach of the duty of care owed patients by physicians and represents a wholesale attack on the doctor/patient relationship. In short, the Department's actions have destroyed the due process rights-and sometimes the lives-of Americans in pain.

One only need look at what happened to the Arthur Andersen corporation in 2005 to understand the overwhelming force exerted by the USDOJ and why millionaire executives of a company as large as Purdue might plead guilty to crimes they may not have actually committed. For when the US DOJ seeks to get its way, the law be damned, and with it all of the political freedoms our country was supposed to further and protect. What's worse, no one at the legislative branch appears to have been minding the store.

While Arthur Andersen maintained its innocence and was ultimately exonerated by a unanimous ruling of the United States Supreme Court, Arthur Anderson was, nevertheless, destroyed as an institution. The point that seems to have been missed there, and the one that must be remembered now, if we are to analyze Purdue's situation correctly, is that in the Arthur Anderson case, the US DOJ was caught and exposed for procuring a criminal conviction without any showing of mens rea, and nothing was done about it. As a result, a message has been sent by the USDOJ to all defendants, and it is coming through loud and clear: you may fight for your innocence and even ultimately prevail, but we will bring you down, nevertheless.

Purdue would have faced the same fate as Arthur Anderson if they'd taken the government on, whether they were guilty or not. Just as every Federal defendant is ultimately obliged to do, one way or another, Purdue was put into a position to let the United States Department of Justice characterize the nature of their enterprise, or lose the company entirely. Under such astonishing coercive power, the truth could not possibly come out. What's worse, under this scenario, the Justice Department is attempting to use the Senate Judiciary Committee as a platform upon which government attorneys can proudly parade their victory before the public. So, Members of the Committee, we counsel you not to assume that a guilty plea by Purdue executives signifies any actual guilt. In fact, one can only fairly deduce from the existence of such an agreement, that the defendants primarily wish to survive their encounter with our USDOJ.

Many people in severe pain, especially those with high dose requirements, have been maimed or killed as a result of this department's campaign against pain management. But we haven't, as of yet, seen Senate Judiciary Committee hearings about that ongoing atrocity. Instead, we watch raptly as a mother blames this company for the death of her daughter, a death that, no matter how genuinely heartbreaking, resulted-if not accidentally- at most from medical negligence. I fail to see why a story of medical malpractice is properly before the Senate Judiciary Committee. What possible value could it have to this committee except to prejudice the committee against this company?

Government lawyers and their supporters are attempting to influence the Committee just like they do Federal judges and juries, such that if the issue is drugs, then the protective rules of evidence are turned on their heads. As is true in courtrooms throughout the land- whenever drugs are at issue- if the testimony offered by the government is irrelevant and prejudicial, it comes in. It is unfortunate that these perverse tactics are not only employed in Federal courtrooms by Federal prosecutors, but in testimony to the Senate Judiciary Committee as well. Prosecutors are leading this country around by the nose and they are doing so through shameless emotional manipulation.

Bad as this is, and it is bad indeed, what is even more troubling is the bedlam hidden from view by these cheap theatrics. Many Americans continue to lose their lives, their jobs, their very ability to get out of bed, all of this and more, as a result of the USDOJ's campaign against pain treatment. Today, the USDOJ sends yet another deadly message, this time not to physicians, but to the pharmaceutical industry: stay away from the manufacturing and marketing of opioids- or else. But this time, sadly, the USDOJ does it with the tacit, and, we hope, unintentional approval of the United States Senate.

In coercing this plea deal, the US government effectively dissuades pharmaceutical companies from manufacturing better opioid pain drugs, drugs that are badly needed by the estimated 10 million Americans suffering in out-of-control pain. Patients in pain are dying unnecessarily in droves. In addition to being driven to suicide, these patients develop deadly conditions secondary to the stress of ceaseless pain, often dying of conditions such as heart disease and stroke arising as a result of abnormally high blood pressure and the sedentary life style imposed on them by their untreated pain. Hundreds of thousands of pain patients have been damaged or killed by non-controlled drugs like Vioxx or Celebrex, drugs which unlike Oxycontin did their damage when taken as directed. And we have no idea how many law abiding citizens are forced to go to the street to buy "controlled" pain medicines, making ill Americans vulnerable to accusations of criminality because this is the only way for them to survive and to continue to provide for their families.

Opioid medications have been a Godsend to man for over two thousand years. But now, in America under the Bush Administration, American men and women, children, babies, and veterans are unable to access dosages that provide relief. The overarching goal of the government's campaign appears to be the maintenance of the widespread and highly prejudicial (to patients in pain) confusion over the addictiveness of these medications. For while opioid addiction is a terrible problem for those rare people who suffer its ravages, it is indeed a rare affliction and is not caused by exposure to opioid pain medicines.

This was proven definitively by studies done by the US Government itself on data compiled on soldiers returning from Vietnam. The U.S. Army found by testing urine specimens that more than 250,000 American soldiers had used heroin, and that of these, some 80,000 could be classified as addicts (in that they used it every day for long periods and suffered withdrawal symptoms). Yet, more than 90 percent of these users and addicts were able voluntarily to withdraw from the use of heroin without any medical assistance

or without any permanent aftereffects. Follow-up studies showed that less than 1 percent of the total number-and less than 6 percent of the addicts-used heroin again in a two-year period after they were discharged from the Army. Doctors and scientists studying this massive data were compelled to conclude that heroin use did not necessarily lead to addiction, and that addiction was not necessarily irreversible. Indeed, the Vietnam data suggested that in large part addiction resulted from problems in adjusting to a dangerous environment (i.e., the war in Vietnam) rather than from the chemical effects of the drug itself. The rarity of addiction following opioid exposure has since been confirmed by a wealth of data on patients in pain who were given opioids for extreme pain such as severe burns. Still, as you see from the testimony brought to you by the Department of Justice, they seek to enflame public fears about opioids, fears that should have been laid to rest 35 years ago.

Because the Federal imperative to manifest a "drug free America," has fueled the explosive growth of both the Federal law enforcement apparatus and the addiction treatment industry, the simple, scientific truth that opioids are remarkably safe, effective, and lack inherent 'addictiveness' poses a grave threat to the Federal bureaucracy.

Hence, the Justice Department uses the Federal court system to coerce agreements out of individuals and companies, imprisoning those who resist, for terms whose lengths are unheard of in any other part of the world. It is by these methods that they generate false evidence of a large drug addiction problem, evidence they then bring to you and other members of Congress in their never-ending plea for greater funding and expanded powers. The attorneys at the US DOJ ultimately responsible for the pain crisis are using their power to suppress science, and are destroying the public health in the process.

We at the Pain Relief Network abhor this outrageous misuse of public trust, public moneys and goodwill, and denounce it in the strongest possible terms. We ask, therefore, that the Senate Committee on the Judiciary hold hearings into the real tragedy the American people have suffered under this government suppression of the truth, and we ask that the Senate hold those responsible, accountable for their actions.