



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

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MEMORANDUM

TO: Board of County Commissioners
FROM: Dylan Reingold, County Attorney
DATE: July 31, 2019
SUBJECT: Opioid Litigation Update

BACKGROUND

On March 6, 2018, the Indian River County Board of County Commissioners (the "Board") voted to direct the County Attorney's Office to stay updated on opioid litigation, communicate with the Indian River County Sheriff's Office and the Indian River County Emergency Services District, and report back to the Board with any updates. Recently, the County Attorney's Office was approached by a law firm recommending that Indian River County should file an opioid lawsuit in federal court.

As noted in the County Attorney's Office memorandum, presented to the Board on March 6, 2018, the Indian River County Emergency Services District data indicates that there were approximately 50 responses to opioid incidents per year in 2012, 2013, and 2014. The number increased to approximately 80, 130 and 150 in 2015, 2016, and 2017, respectively. The total direct costs of a response to a call is \$600. Although it is unknown the amount of insurance proceeds Indian River County has received related to these calls for service, Indian River County averages reimbursement for almost 80% of calls for service.

Opioid Epidemic

Opioids are prescription narcotics possessing properties similar to opium and heroin. While opioids can ease pain, they also can create an addictive euphoric high in users. Currently, the country faces what has been deemed an opioid epidemic, a rapid increase nationally in the use of prescription and non-prescription opioid drugs. Recently a database maintained by the Drug Enforcement Administration that tracks the path of every pill sold was made public.

The data shows that the areas in Appalachia were hardest hit by the epidemic. For instance from 2006 to 2012, there were 38,269,630 prescription pain pills supplied in Mingo County, West Virginia. That is enough for 203 pills per person per year. Florida was also impacted with 5.5 billion prescription pain pills supplied in Florida between 2006 and 2012. During that time period, almost 42 million prescription pain pills were supplied in Indian River County. That is roughly 44 pills per person per year. 14,886,240 of the pills were distributed by Walgreen Co. and 18,123,280 were manufactured by Actavis Pharma, Inc. Although more pain pills were supplied in St. Lucie County, 64,898,867, the per person total was less than that of Indian River County, at 34 pills per person per year. And 39,431,144 pills were supplied in Martin County during that time period, which equates to 39 pills per person per year.

The opioid epidemic also saw many people travel to Florida for the cheap pill mills. By 2010, 90 of the nation's top 100 opioid prescribers were Florida doctors, and 85% of the nation's oxycodone was prescribed in Florida. In 2010, about 500 million pills were sold in Florida. In 2010, 4,282 people died in Florida with oxycodone or another prescription opioid in their system, with 2,710 of the deaths deemed overdoses, according to a state medical examiners' report.

In 2011, the State of Florida started to use computerized systems tracking the sale of legal narcotics and the Legislature tightened the state's drug laws, including a ban on doctors and clinics dispensing opioids onsite and setting limits on the number of pills most patients could receive. Within a year, the number of pill mills registered with the State of Florida fell from 921 to 441 and by 2014 there were 371.

And recently, the State of Florida Medical Examiners Commission released its interim 2018 data, which showed that overall drug-related deaths were down five percent and opioid-caused deaths were down 13 percent. The data was compared to the same time for 2017.

Opioid Litigation

State attorneys general, local governments and other public entities nationwide have filed lawsuits as a result of damages suffered due to the opioid epidemic.

In November 2017, a panel of federal judges decided to combine the separate federal actions filed by various local governmental agencies against the pharmaceutical industry into one single Multi District Litigation in the Northern District of Ohio. The case was assigned to Judge Dan Polster. There are now approximately 1,800 combined cases before Judge Polster. The cases accuse Purdue Pharma and other drug manufacturers, along with drug distributors like McKesson, AmerisourceBergen, and Cardinal Health and national pharmacies of responsibility for opioid-related harm. The first trial is scheduled for October 2019.

On June 14, 2019, it was announced that attorneys for local governments unveiled a plan that could lead to a global settlement of the federal lawsuits. The plan would create a negotiation class consisting of every local government in the country. If a local government does not opt out up front, it would be presumed to have opted into the settlement. Reports indicate that in order to determine what each local government would receive, an interactive map was created that would show each local government their expected share of any proposed settlement. The amount each local government would receive would be based on the amount of drugs shipped to the jurisdiction, the number of overdose deaths in the jurisdiction and the number of people addicted in the jurisdiction. Pharmaceutical distributors and attorneys general in 39 states, including Florida, have filed objections to the proposal. A hearing on the proposal is scheduled for August 6, 2019.

On the state law front, the first opioid civil lawsuit to go to trial wrapped up recently in Oklahoma. The Oklahoma lawsuit originally targeted three drug makers, but Teva Pharmaceuticals and Purdue Pharma settled with the State of Oklahoma for \$85 million and \$270 million, respectively, before the trial began on May 28. The case continued with Johnson & Johnson as the sole defendant. Judge Thad Balkman of Oklahoma state district court heard the case and has indicated that he plans to report his findings before the end of August. The State of Oklahoma is seeking up to \$17.5 billion to address the opioid crisis in the state.

In Florida, several local governments filed state court actions, however, some, if not all of those cases, such as the lawsuits file by the City of Miami and Alachua County, have been removed to federal court and then combined with the MDL.

RECOMMENDATION

This is an information item. There is no recommendation.