

NATIONAL POST

Marni Soupcoff: Suing big pharma over opioids is good for headlines, but little else

Marni Soupcoff

August 29, 2019

Back in 2015 when I started reading *Dreamland* by Sam Quinones, I wasn't even aware there was a problem with opioids, let alone the epidemic the author describes in his enthralling book. By the time I'd finished, I felt great sympathy for the millions of families and individuals whose lives had been destroyed by an addiction to opioids, whether the problematic drugs were prescription painkillers or Mexican heroin. There obviously was a sweeping scourge that I'd completely missed.

Four years on, time has not ended the crisis. Far from it. But it would be difficult to read the news in 2019 without coming across references to the overwhelming number of opioid overdoses and the attempts to get a handle on what the U.S. Department of Health and Human Services (HHS) in 2017 declared a public health emergency. Just this past April, HHS launched a US\$353-million program aimed at reducing opioid-related deaths over the next few years.

This week, an Oklahoma judge issued an opinion ordering Johnson & Johnson to pay US\$572 million for contributing to that state's opioid crisis. The amount isn't much for a company with annual sales in the range of US\$80 billion. Yet it's probably still too much given that the data doesn't support the popular narrative of greedy big pharma being responsible for the opioid mess. It's easy to blame the over-prescription of opioid painkillers for the problem — *Dreamland* makes this case, as do most news and think pieces on the subject. It just doesn't seem to be true.

The most obvious issue with the theory is that as the prescription of opioids has been dropping over the past several years, deaths from opioid overdoses have been rising. Nobody knows for certain why that's the case, but Cato Institute Senior Fellow Dr. Jeffrey A. Singer has consistently made a persuasive case that the reason is that addicts are being driven from legally manufactured pharmaceuticals to unsafe street drugs. Here's Singer in a piece on Cato's *At Liberty* blog: "As it has become more difficult and expensive to divert prescription pain pills to the underground market for non-medical use, non-medical users have migrated to heroin and fentanyl that the efficient black market is supplying in abundance."

In other words, Singer blames the government restriction of opioids for the growing number of deaths, a conclusion shared by the authors of a February 2019 Cato policy analysis called "Overdosing on Regulation: How Government Caused the Opioid Epidemic."

It does seem awfully rich of governments such as the state of Oklahoma to be feigning innocent shock — we were blindsided! — by what they characterize as a pharma-caused opioid epidemic when government has been so heavily involved in how prescription opioids have been handled. Take the U.S. Drug Enforcement Agency (DEA). It consistently raised the annual production

quota for prescription opioids (yes, when not chasing down drug dealers, the DEA sets production quotas for pharmaceuticals) even when doctors were prescribing the painkillers more than ever before. If the opioid crisis really is an over-prescription problem, then the government had the information and power to do something about it ... years ago.

The trouble is that signs point to the opioid disaster not being an over-prescription problem; which means going after big pharma for large cash awards or settlements shouldn't be the answer. And if there isn't a deep-pocketed defendant for plaintiffs to sue then what's the point of a public health crisis?

Is that too cynical? Are you not feeling sorry for big pharma yet? That's your prerogative, but let's not forget that following the over-prescription narrative means restricting access to legal opioids. Besides driving non-medical users to more dangerous alternatives, restriction also has a significant impact on patients who are in real debilitating pain and legitimately need prescription opioids. These people are already having a difficult time getting the medication that makes life tolerable for them because doctors are afraid of being accused of over-prescribing. As the war on prescription opioids continues, that will only get worse.

Squeezing money out of pharmaceutical companies is good for headlines, but very little else. It's certainly not going to stop people from dying from overdoses of black-market heroin and fentanyl, and it takes the focus away from interventions that could do some real good in a bad situation, such as needle exchange and safe injection sites. As Singer summarizes the Oklahoma verdict: "While state and municipal coffers may get some quick cash infusions, and some political careers may get a needed boost, this shakedown will not get one IV drug user to pull the needle out of their arm."