**Testimony of Andrew E. Lelling**
**Former United States Attorney, District of Massachusetts**

**"Cleaning Up the C-Suite: Ensuring Accountability for Corporate Criminals"**
**December 12, 2023**

Thank you Chairman Durbin and Ranking Member Graham for the invitation to address this Committee on the complex issue of corporate crime and the accountability of "c-suite"-level executives.

I have been a student of this issue for over 20 years. I joined the U.S. Department of Justice ("DOJ") in August 2001. Of course, that was one month before the attacks of September 11, 2001, but it was also four months before the final collapse of the Enron Corporation, an event that evaporated approximately $74 billion in shareholder value along with the hard-earned pensions of thousands of Enron employees. The reckless corporate accounting and audit practices characterizing the Enron debacle ushered in a new era of corporate criminal enforcement, and DOJ has wrestled ever since with how to strike the balance between corporate accountability and heavy-handedness. After all, DOJ successfully prosecuted Enron's senior-most executives – President and CEO Kenneth Lay and CEO and COO Jeffrey Skilling – but DOJ also destroyed Arthur Andersen, a major accounting firm indicted for obstructing the investigation of Enron's accounting practices. That prosecution led to Arthur Andersen's collapse in 2002 but, rather too late, its criminal conviction was reversed by the U.S. Supreme Court – unanimously – in 2005.[1]

I spent most of my time at DOJ handling white collar matters. I was a federal prosecutor from 2001 – 2021, focusing mostly on complex fraud investigations, including corporate accounting fraud, tax crimes, securities fraud and other investment-related misconduct. I was also the United States Attorney for the District of Massachusetts from 2017 – 2021, a period in which I led several major white collar enforcement actions, including the largest single-bank financial settlement – $5 billion – to arise from the financial crisis of 2008 – 2009 (Royal Bank of Scotland); the first-ever prosecution of senior pharma executives for their role in exacerbating the opioid epidemic (Insys, Inc.); and Operation Varsity Blues. Today, now in the private sector, I defend companies and executives implicated in federal criminal and civil investigations.

I have seen these matters from the inside and the outside. Based on my experience, I have a few observations, in the hope that they assist the Committee with its thinking in this area.

First, I am struck by the evolution and increasing sophistication of DOJ's corporate enforcement efforts since the Enron days. Recall that concern about corporate, and "c-suite" liability is not new. For example, Enron, WorldCom,[2] and other corporate scandals in that era led

[1] *Arthur Andersen LLP v. United States*, 544 U.S. 696, 708 (2005).

[2] In 2005, Bernard Ebbers, the CEO of WorldCom, was convicted on fraud and conspiracy charges arising from a corporate accounting scandal implicating $11 billion in revenue. *See, e.g.*, Ken Belson, *Ex-Chief of WorldCom is Found Guilty in $11 Billion Fraud*, N.Y. TIMES, Mar. 16, 2005, available at https://www.nytimes.com/2005/03/16/business/exchief-of-worldcom-is-found-guilty-in-11-billion-fraud.html.

to the Sarbanes-Oxley Act,[3] which substantially reformed and supplemented federal financial reporting obligations for corporations, including bolstering the arsenal of criminal statutes DOJ could use against corporate executives. The financial crisis of 2008 – 2009 led to the Dodd-Frank Wall Street Reform and Consumer Protection Act,[4] which reorganized the financial regulatory system and increased regulation in the securities and related industries. And there has been a steady stream of policy pronouncements from DOJ over the last 20 years, in an effort to properly calibrate federal enforcement in the corporate context.

The result today is that DOJ has many tools at its disposal when it comes to investigating and prosecuting corporations and their executives. On the investigative side, there are the usual tools, including grand juries, wire taps – now used in the white collar context more than ever – search warrants, and other forensic tools used by DOJ and federal law enforcement agencies. DOJ is also now more sophisticated in mining large data sets, especially in the healthcare context.[5] On the prosecution side, even within certain limits imposed by the U.S. Supreme Court over the last ten years or so, DOJ retains flexibility in charging corporations and individuals. The most common federal crimes in this context are wire fraud, mail fraud, securities fraud, and the various anti-money laundering statutes, all of which can be supplemented by conspiracy charges.[6]

Moreover, over the years it has been the consistent position of the Department, unofficially and then officially, to prioritize prosecuting individual corporate employees over prosecuting the entity itself.[7] There has been broad agreement on this policy across administrations, since corporations are composed of persons making business decisions every day, and it is persons – not entities – who can be deterred from future wrongdoing.

This brings me to a genuinely persistent myth I have encountered over my years in federal enforcement: the myth that federal prosecutors are somehow scared to pursue and indict senior executives at large companies.[8] This is simply false. In my experience over two decades, your average federal prosecutor – and definitely your average U.S. Attorney – would love to indict "c-suite" executives if he or she could accumulate the evidence to do so. Charges against senior executives are ambitious and high profile – plum assignments for aggressive AUSAs. They draw

---

[3] 116 Stat. 745 (2002).

[4] 12 U.S.C. § 5511.

[5] The government's recent Paycheck Protection Program (PPP) prosecutions provide a concrete example of the DOJ's success with data analytics. *See* AAG Brian Rabbitt, *Remarks at the PPP Criminal Fraud Enforcement Action Press Conference*, Sept. 10, 2020, ("Second, I'd like to highlight the Division's use of data analytics to develop these cases so quickly. As I mentioned before, there were over 5.2 million PPP loans made. To bring these cases as quickly as we have, and to sort through the volume of loans made by the SBA, the Fraud Section and its partners deployed the first-in-class data analytics capabilities they have developed and employed to great effect in other criminal investigative areas, such as health care fraud and market manipulation.").

[6] *See* 18 U.S.C. § 1343 (wire fraud); 18 U.S.C. § 1341 (mail fraud); 18 U.S.C. § 1348 (securities fraud); 18 U.S.C. §§ 1956 and 1957 (money laundering).

[7] Sally Q. Yates, Deputy Attorney General, Memorandum, *Individual Accountability for Corporate Wrongdoing*, Sept. 9, 2015 ("Yates Memo").

[8] *See, e.g.*, Jesse Eisinger, *The Chickenshit Club: Why the Justice Department Fails to Prosecute Executives* (July 11, 2017).

media attention and change the behavior of industries. Of course there will be prosecutors too lazy, or too scared, to pursue such charges, but that is an exception, not some kind of DOJ policy or unofficial practice that can be fixed through legislation.

The real issue in this context is that it is simply harder to prove criminal charges against senior executives, who are often somewhat distant from the actual criminal conduct, be it accounting fraud, securities fraud, money laundering, sanctions violations or some other corporate malfeasance. Because of that distance, it may be that the senior executives simply are not culpable – regardless of the public desire to see heads roll – or that the government just can't prove it. I've seen both. Not unreasonably, in light of the corporate scandals of the early 2000s, the financial crisis of 2008 – 2009, and the early years of the opioid epidemic, there has been occasional debate over whether "c-suite" executives at major companies are getting away with something. While there are, of course, exceptions, overall the answer is, "No." Proving fraud requires proving the specific intent of the defendant beyond a reasonable doubt, a high standard that often cannot be met with participants who did not directly engage in the relevant misconduct.[9] Even with conspiracy charges, which do not require proving the same level of intent,[10] it can be difficult to show that the executive was knowingly assisting in a group effort to commit a federal crime, as opposed to knowingly participating in just another business activity.

Over the years, Congress has taken legislative steps to address this problem. For example, the Sarbanes Oxley Act implemented a requirement that corporate CEOs and CFOs personally certify the accuracy of company financial statements – this was in part a response to Kenneth Lay's defense strategy at trial – and made it a new federal crime to so certify knowing that the underlying financials did not "fairly present" the company's financial condition.[11] These laws were good policy; I and other prosecutors have used them to indict CEOs and CFOs of publicly traded companies.[12] Determined prosecutors find other means as well; for example, in 2019 the Boston U.S. Attorney's Office secured convictions at trial against senior executives of Insys, Inc., for illegally marketing an exceptionally powerful synthetic opioid.[13] We used not only mail fraud and conspiracy charges, but RICO and the federal drug trafficking laws. That case was the basis for the recent Netflix film, *The Pain Hustlers*.

In turn, no company I have ever seen, whether as a prosecutor or on the defense side, scoffs at the risks of federal criminal enforcement. Most major companies, through their counsel, closely follow changes in federal enforcement policy. For a corporation, regardless of size, the costs of federal enforcement are enormous: defending against the investigation, even if it never results in criminal charges, often costs millions of dollars; settlements – whether pre- or post-charging – can

[9] *See, e.g.*, *United States v. Stalnaker*, 571 F.3d 428, 436 (5th Cir. 2009) ("Wire fraud is a specific-intent crime requiring proof that the defendant knew the scheme involved false representations . . . which related to material information." (internal quotations and citation omitted)).

[10] 18 U.S.C. § 371.

[11] 18 U.S.C. § 1350.

[12] *See, e.g., United States v. Jon Latorella & James Fields*, No. 1:10-CR-10388 (D. Mass. 2010).

[13] *See United States v. Kapoor*, 1:16-CR-10343 (D. Mass. 2012).

reach into the billions;[14] any public resolution damages the business reputation of the entity, to say nothing of the market effects for publicly traded companies; and it is an enormous drain on leadership and management resources. The point here is not to curry sympathy for massive corporations. It is that – under the current laws and DOJ practice – most businesses do fear enforcement and take steps to avoid it. There is a reason why compliance is a fast-growing segment of corporate legal departments and law firm practices.[15]

This is true on the individual level as well. Senior executives and board members at large companies perceive DOJ as active and aggressive in white collar enforcement – I know, I talk to these people. And after Enron, the U.S. Sentencing Guidelines applicable to misconduct by corporate executives were patched and patched again, to the point where fairly routine corporate fraud cases yielded exceptionally high sentences.[16] These changes were not lost on those who run corporate America. I do note that through Sentencing Guideline amendments and legislation, white collar sentencing has recently been mitigated – perhaps even too much in some instances: In combination, these adjustments often allow a sentence that appears impressive on the front end to be drastically reduced on the back end (long after anyone is really paying attention).[17] Recent Guideline adjustments also invite judges to reduce or eliminate sentences for white collar

[14] For example, in 2012, global health care giant GlaxoSmithKline LLC ("GSK") agreed to plead guilty and pay $3 billion to resolve criminal and civil liability arising from the company's unlawful promotion of certain prescription drugs, failure to report safety data, and liability arising from improper price reporting practices. GSK pleaded guilty to a three-count criminal information. Under the terms of the plea agreement, GSK paid a total of $1 billion, including a criminal fine of $956,814,400 and forfeiture in the amount of $43,185,600. The criminal plea agreement also included compliance commitments and certifications by GSK's U.S. president and board of directors. DOJ Press Release, *GlaxoSmithKline to Plead Guilty and Pay $3 Billion to Resolve Fraud Allegations and Failure to Report Safety Data*, July 2, 2012, available at https://www.justice.gov/opa/pr/glaxosmithkline-plead-guilty-and-pay-3-billion-resolve-fraud-allegations-and-failure-report.

Last month, Binance Holdings Limited, the entity that operates the world's largest cryptocurrency exchange, pleaded guilty and agreed to pay over $4 billion to resolve the Justice Department's investigation into violations related to the Bank Secrecy Act, failure to register as a money transmitting business, and violations of the International Emergency Economic Powers Act. Binance's founder and CEO also pleaded guilty to failing to maintain an effective anti-money laundering program, and resigned as CEO. As part of the plea agreement, Binance agreed to forfeit $2,510,650,588 and pay a criminal fine of $1,805,475,575, for a total financial penalty of $4,316,126,163. Binance also agreed to retain an independent compliance monitor for three years and enhance their anti-money laundering and sanctions compliance programs. Binance also separately reached agreements with the CFTC, FinCEN, and OFAC. DOJ Press Release, *Biance and CEO Plead Guilty to Federal Charges in $4B Resolution*, Nov. 21, 2023, available at https://www.justice.gov/opa/pr/binance-and-ceo-plead-guilty-federal-charges-4b-resolution.

[15] *See, e.g.*, William Josten, *Are Rising Regulatory Concerns a Headache for In-House Teams and a Missed Opportunity for Law Firms?*, THOMSON REUTERS, Apr. 12, 2023, available at https://www.thomsonreuters.com/en-us/posts/legal/rising-regulatory-concerns-corporate-law/.

[16] *See, e.g.,* U.S.S.G. § 2B1.1 (2023). In the Enron-related prosecutions, CEO Kenneth Lay died of a heart attack two days before his sentencing hearing; he faced decades in prison. Co-defendant Jeffrey Skilling was sentenced to 24 years in prison, which was later reduced on appeal after the U.S. Supreme Court reversed certain of his convictions. Both men were sentenced when the federal sentencing guidelines were still mandatory.

[17] *See, e.g.*, Walter Pavlo, *The First Step Act Shortens Federal Prison Sentences, Including Elizabeth Holmes'*, PROGRAM ON CORPORATE COMPLIANCE AND ENFORCEMENT (noting that, under the First Step Act and various other BOP programs, Holmes could serve 66 months of her 135-month sentence before being released to home confinement), available at https://wp.nyu.edu/compliance_enforcement/2023/07/05/the-first-step-act-shortens-federal-prison-sentences-including-elizabeth-holmes/#:~:text=However%2C%20a%20prison%20term%20after,have%20under%20older%20federal%20laws.

defendants who have no prior criminal history, which of course is nearly every executive working at a corporation.[18] Overall, however, it would be a mistake to assume that corporate executives perceive the risk of prosecution – or of the likely punishment – as having receded.

Over the last 20 years, there has been occasional debate about numbers and "stats" – is DOJ doing "enough" white collar enforcement, at least according to the metric of exactly how many cases were brought in a given year.[19] I've had this discussion with senior Department officials numerous times. But while the tempo of enforcement activity varies, both across time and across the 93 U.S. Attorney's Offices, in my view this is not precisely the right question. The right question is whether DOJ's current level of activity is achieving the central goals of criminal enforcement: proportional punishment for wrongdoers, and deterrence of others who are in a position to commit similar offenses.[20] As noted above, corporations are very aware of DOJ enforcement and fear it. As to individuals, it's easy to declare that senior executives need to be held to account, but it is harder to achieve in practice. Even so, any number of corporate executives are prosecuted in a given year, and the sentences are often high.[21]

A factor to bear in mind is the resource-intensive nature of this kind of enforcement. These are not "guns and drugs" cases. These kinds of investigations often involve the government subpoenaing terabytes of business data, from email to accounting records, which is then reviewed by the assigned agents and analysts (one to two people in most cases), and eventually by the assigned AUSA (usually one). To understand the alleged fraud, government lawyers need to understand the underlying business and often GAAP accounting principles as well – complex tasks that often require the support of experts and/or grand jury witnesses. Along the way, the government is negotiating with numerous outside lawyers – those representing individual

---

[18] For example, the United States Sentencing Commission has added an application note to § 5C1.1 of the Guidelines, which provides that (1) a non-incarceration sentence is "generally appropriate" for a defendant with no criminal history, who received a two-level reduction under §4C1.1, and is in Zone A or B; and (2) a downward departure, including to a non-incarceration sentence, "may be appropriate" for a defendant with no criminal history who received the same reduction, is in Zone C or D (a higher sentencing range), and whose guideline range "overstates the gravity of the offense" because the offense was neither violent nor otherwise serious. These amendments went into effect on November 1, 2023.

[19] *See, e.g.*, David Dayen, *Talk of Criminally Prosecuting Corporations Up, Actual Prosecutions Down*, THE INTERCEPT (Oct. 13, 2015), available at https://theintercept.com/2015/10/13/talk-of-criminally-prosecuting-corporations-up-actual-prosecutions-down/.

[20] *See, e.g.*, 18 U.S.C. § 3553(a).

[21] Reviewing the current year, see, for example, *United States v. Lopez*, No. 2:23-cr-55 (D. Nev. 2023) (Eduardo Lopez, a health care staffing executive, indicted for conspiring to fix wages and commit fraud to facilitate selling company); *United States v. Peizer*, No. 2:23-cr-89 (N.D. Cal.. 2023) (CEO and Chairman of Ontrak Inc., a publicly traded health care company, indicted for insider trading involving over $12.5 million in avoided loss); *United States v. Lindberg*, No. 3:23-cr-48 (N.D. Cal. 2023) (owner or controller of multiple insurance companies charged with conspiracy, fraud, and false statements in connection with $2 billion scheme to defraud by misrepresenting financial condition of companies and use of company funds); *United States. v. F. Allied Construction Co.*, No. 2:23-cr-20381 (E.D. Mich. 2023) (corporation and executives pleaded guilty to conspiracy to suppress and eliminate competition via bid rigging); *United States v. Shah*, No. 1:19-cr-864 (N.D. Ill. 2023) (three former executives of Outcome Health, a health technology company, convicted at trial for roles in fraud scheme involving approximately $1 billion in fraudulently obtained funds).

corporate executives and whoever is defending the corporation itself. All of this is unavoidably time-consuming, regardless of the number of people working on the matter.

In turn, once the government has a handle on what happened, negotiations with individuals and the corporation itself can take months or years, as the government and defense lawyers negotiate immunity deals, produce additional documents or data, exchange expert findings, and/or arrange opportunities for defense counsel to make presentations relating to culpability or penalties. If the parties do not reach a resolution short of criminal charges, prosecution itself will take additional months or years, depending on the district and the complexity of the case.

As a corollary to the concern over "stats," there is intermittent hand-wringing about the use of deferred prosecution agreements ("DPA") and non-prosecution agreements ("NPA") to resolve criminal investigations of corporate entities. A DPA is a contractual arrangement between DOJ and the target company in which the government brings charges against the entity but agrees not to pursue them so long as the entity meets certain requirements; for example, paying a financial penalty and revising internal compliance programs in a manner approved by DOJ. The company also publicly admits to a factual statement, drafted by DOJ, summarizing the company's misconduct. Other requirements often include agreeing to cooperate with the government's investigation of corporate executives or other entities and waiving the relevant statute of limitations. If the company meets all of these requirements, DOJ agrees to seek dismissal of the charges after a certain period, usually years.[22] An NPA is similar, involves no criminal charges and a government commitment not to bring any if the company meets certain requirements. These are more unusual.

In the corporate context, DPAs are rarely used with individual defendants but, as to corporate entities, what the previous discussion of resource realities shows is that DPAs are often a useful and efficient tool for addressing and deterring corporate misconduct. It is true that they can be used inappropriately, in situations where more severe handling is warranted, but these kinds of misjudgments are true in all areas of federal prosecution. In the corporate sphere, DPAs are often a means of publicly holding a company to account for its misconduct – including a criminal charge, admission to a highly unfavorable statement of facts written by federal prosecutors, and a severe financial penalty – while shaving months or years of further investigation and litigation and also requiring the company to implement substantial internal changes to deter future misconduct.[23]

In short, this kind of resolution is often, though of course not always, in the public interest, and it usually assists the effort to hold individual executives accountable through criminal charges.

---

[22] *See* U.S. Dep't of Justice, *Justice Manual*, 9-28.200 (General Considerations of Corporate Liability). For a recent example, *see United States v. British American Tobacco P.L.C.*, No. 23-cr-118 (D.D.C. 2023) (Deferred prosecution agreement) (British American Tobacco and its subsidiary agreed to pay penalties totaling more than $629 million to resolve bank fraud and sanctions violations charges arising out of the companies' scheme to do business in North Korea through a third-party company in Singapore, in violation of the bank fraud statute and the International Emergency Economic Powers Act.).

[23] *Cf. United States v. Taro Pharmaceuticals U.S.A., Inc.*, No. 20-cr-213 (E.D. Pa. 2020) (deferred production agreement). As part of Taro's cooperations obligations, the company agreed to cooperate with the Antitrust Division's ongoing criminal investigation of the generic drug industry. In February 2020, Taro's former executive, Ara Aprahamian, was indicted. After Taro's DPA, other companies reached settlements with DOJ.

If the use of DPAs were eliminated, the time frame for resolving criminal cases against corporations and their executives would, as an average, substantially increase. Especially in cases where investors were harmed, would this be better? It would greatly delay restitution to those investors. Similarly, it would delay, and could stymie in the event of an acquittal, the effort to require companies to implement meaningful compliance reforms.

Along the same theme, DOJ's recent implementation of self-disclosure policies for corporate wrongdoing is a good idea.[24] This has worked well in prior contexts.[25] For one, it materially increases the amount of wrongdoing addressed by the Department, as self-disclosure supplements the government's own policing efforts. With official recognition that self-disclosure could lead to more lenient treatment, companies must now add this factor to their risk calculus when they uncover internal wrongdoing.[26] The policy also creates a wedge between the company's interests and those of individual executives: the corporation may benefit from self-disclosure, but the price may be cooperation against its own personnel.

Another recent step by DOJ is worth noting. This year, DOJ stood up a publicly-available database intended to capture all corporate resolutions, including pre-charging settlements like DPAs.[27] Private organizations have tried to maintain these kinds of databases; in fact I think Professor Brandon Garrett helps maintain one of the better ones.[28] I think most of us, regardless of our particular views on the current state of corporate criminal enforcement, agree that more transparency is better – better data leads to better policy, and the public should be able to see how DOJ does business. This is especially so in an age in which major corporations profoundly impact the lives of ordinary Americans, right down to what they are allowed to say on social media platforms serving millions of people. Based on my experience, a comprehensive review of enforcement efforts, whether or not they result in filed charges, shows that, while the system isn't perfect, no corporation dismisses the risks of federal enforcement. Moreover, the ever-present threat of federal enforcement has prompted U.S.-based corporations to implement internal controls that are among the most effective in the world.

---

[24] *See* U.S. Dep't of Justice, *Justice Manual*, 9-47.120 (Criminal Division Corporate Enforcement and Voluntary Self-Disclosure Policy); U.S. Dep't of Justice, *United States Attorneys' Offices Voluntary Self-Disclosure Policy* (Feb. 22, 2023).

[25] *See, e.g., Self Reporting to the Authorities and Other Disclosure Obligations: The US Perspective*, GLOBAL INVESTIGATIONS REVIEW, Feb. 8, 2021 (discussing, *inter alia*, DOJ's FCPA voluntary disclosure program), available at https://globalinvestigationsreview.com/guide/the-practitioners-guide-global-investigations/2021/article/self-reporting-the-authorities-and-other-disclosure-obligations-the-us-perspective.

[26] Ariel A. Neuman & Jen C. Won, *When and Why to Consider Self-Disclosure of Criminal Conduct* , ABA ("Self-disclosure of criminal conduct is virtually becoming a requirement given current DOJ policy. Failure to disclose upon detection will lead to prosecutions and the imposition of significant penalties that may otherwise be avoided. Whether the misconduct comes to light in the context of a referral from an opponent in civil litigation, a whistleblower, or a victim report, the consequences for a company will be far worse if the feds knock on the company's door, as opposed to vice versa. Civil litigators who represent corporations will want to keep these considerations in mind and strive to stay informed about the latest developments in DOJ policy.").

[27] U.S. Dep't of Justice, Corporate Crime Database, available at https://www.justice.gov/corporate-crime/corporate-crime-case-database.

[28] *Corporate Prosecution Registry*, Duke Law, available at https://corporate-prosecution-registry.com/.

All federal enforcement is about resource allocation. This was true when the DOJ workforce could fit in one room,[29] and it remains true today, with a workforce of over 10,000 lawyers worldwide.[30] We are a big country; DOJ has never been able to devote "enough" prosecutors to a given type of crime and every type, when scrutinized, calls out for additional troops. In the current moment, I caution against prioritizing limited resources for prosecuting corporations and their executives, as opposed to other kinds of crime. When I was the U.S. Attorney in Boston, about 70,000 Americans a year were dying from opioid overdoses and other drugs.[31] We called it a crisis. Now that number is about 110,000, fueled by Mexican drug cartels pumping thousands of pounds of fentanyl into the United States every year over a porous, unsecure border.[32] Our major cities are wracked by not only violent crime but the kind of "lifestyle" crime – shoplifting, vandalism, petty theft – that contributes to an atmosphere of fear and societal decline.[33] Many factors contribute to this, but a lack of determined prosecution is definitely one of them.[34]

Thank you again for the opportunity to address these important issues, and I look forward to whatever questions you may have.

---

[29] *See, e.g.*, U.S. Dept. of Justice, 150 YEARS OF THE DEPARTMENT OF JUSTICE, available at https://www.justice.gov/history/timeline/150-years-department-justice#event-creation-of-the-us-department-of-justice-and-civil-rights-enforcement-1870-1872.

[30] *See, e.g.*, U.S. Dept. of Justice, OFFICE OF ATTORNEY RECRUITMENT & MANAGEMENT, available at https://www.justice.gov/oarm#:~:text=Attorney%20Recruitment%20%26%20Management-,About%20the%20Office,more%20than%2010%2C000%20attorneys%20nationwide.

[31] *See, e.g.*, Natl. Inst. Of Health, DRUG & OPIOID-INVOLVED OVERDOSE DEATHS – UNITED STATES, 2017 – 2018, available at https://pubmed.ncbi.nlm.nih.gov/32191688/#:~:text=During%202018%2C%20a%20total%20of,%2C%20and%204.1%25%2C%20respectively.

[32] *See, e.g.*, Natl. Inst. On Drug Abuse, DRUG OVERDOSE DEATH RATES, available at https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates.

[33] *See, e.g.*, Yuri Avila & John Blanchard, *S.F. Downtown Exodus: Map Shows Every Major Retail Closure This Year*, SAN FRANCISCO CHRONICLE, Dec. 5, 2023, available at https://www.sfchronicle.com/projects/2023/san-francisco-downtown-closing/#:~:text=AT%26T%2C%20Banana%20Republic%20and%20First,the%20mall%20only%2055%25%20leased.

[34] *See* Zack Smith & Charles Stimson, ROGUE PROSECUTORS: HOW RADICAL SOROS LAWYERS ARE DESTROYING AMERICA'S COMMUNITIES (2023).