

The New York Times' Other WMD Problem

August 06 2004

Trevor Butterworth

www.stats.org

The Orlando Sentinel has apologized again for getting the story wrong on OxyContin; when will the New York Times do the same? (Updated Aug. 9)

A less-than-hearty congratulations to the Orlando Sentinel for [finally abandoning the wreck of its investigation into OxyContin abuse](#). On August 1, the paper repudiated data crucial to its argument that the sustained release painkiller had become "a health menace" deserving "immediate action from doctors and officials on the state and federal level" (October 24, 2003).

In short, the Sentinel wildly over-estimated the number of people it claimed had died from overdoses of oxycodone (the active ingredient in OxyContin) by failing to scrutinize state law enforcement data. Most of those who died turned out to have consumed, in addition to OxyContin, a cocktail of illegal drugs.

The paper also apologized for having "created the misleading impression that most oxycodone overdoses resulted from patients taking the drug to relieve pain from medical conditions" — or to recall October's tremulous cadences of outrage, "They were legitimate patients who went to their doctors seeking relief from pain associated with an injury or sickness. Those victims put their faith in their doctors and ended up dead, or broken." (The Sentinel apologized in February for failing to note that one of those portrayed as broken by accidental addiction to OxyContin turned out to have a federal drug conviction.)

Normally, one should be grateful when news organizations are so forthright in admitting mistakes. Yet, in this case, the applause is muted, if not grudging. By portraying OxyContin as a home-grown weapon of mass destruction, the media have inflicted enormous damage to the medical community's attempts to treat chronic pain in millions of Americans.

"Investigations" such as the Sentinel's have spurred political hysteria (Governor Bush wrote to the paper saying it had "exposed a problem that is too widespread and deadly to ignore") and a draconian nation-wide campaign to take down allegedly prescription-happy doctors by the Drug Enforcement Agency and Department of Justice. (For a primer on this chronically under-reported aspect of the drug war, see "[Dr. Feelscared](#)" by [STATS fellow Maia Szalavitz](#) in the August issue of [Reason](#) magazine).

Still, at least the Sentinel apologized and corrected the record. No such correction or apology has ever issued from the New York Times for taking a leading role in prompting the idea that OxyContin was a weapon of mass destruction in the nation's heartland.

"Heck, we already know it's pretty epidemic down here," Capt. Minor Allen of the Hazard Police Department in southeastern Kentucky told Times readers in 2001 ("Cancer Painkillers Pose New Abuse Threat" by Francis X. Clines with Barry Meier, Feb 9.) "Abuse of this drug has become unbelievable in the last year, with probably 85 to 90 percent of our field work now related to oxys," he continued. "We find them carrying pill pushers that are sold in drugstores to help elderly people swallow their prescriptions."

Capt. Allen had just participated in Operation Oxyfest, the biggest drug bust in the Kentucky's history. The operation was directed by Joseph L. Famularo, United States attorney for the eastern district of the state, after he became alarmed by the problem of OxyContin abuse. As he told the Times,

"I personally counted 59 deaths since January of last year that local police attributed to addicts using the drug, and I suspect that's pretty conservative... We didn't catch half of them; that's how pervasive this thing is."

The Times also reported alarm about OxyContin abuse in Maine, Ohio ("It's becoming the prescription drug of choice from greater Cincinnati to rural Ohio," according to Sgt. Kerry Rowland of the Cincinnati police pharmaceutical diversion squad.), and Virginia.

And according to the Times, federal data "shows that while emergency room visits involving oxycodone remained stable from 1990 to 1996, such visits doubled from 3,190 in 1996 to 6,429 in 1999, the period that corresponds with OxyContin's introduction and marketing. The data indicated that deaths attributed to oxycodone products also grew in that period."

The Times story was almost an advertisement for law enforcement. Twenty-six of the 29 attributions came from law enforcement sources involved in the war against OxyContin. One of the few contrary points of view — namely that the claims of OxyContin-related deaths were "inflammatory" came from Dr. David Haddox, medical director for the manufacturer of OxyContin, Purdue Pharma. (Well, who ya gonna trust — Big Pharma?)

Unfortunately, the Times placed far too much trust in the numbers being thrown out by law enforcement and legal sources — as did other news organizations, especially television, which covered Operation Oxyfest like children covering candy.

As the Washington Post's television critic Tom Shales wrote in *Electronic Media* just a few weeks after OxyContin abuse dominated February sweeps (March 26, 2001),

"there is no hard evidence that OxyContin played a key role in 59 Kentuckians keeling over. David Jones, an official with the Kentucky State Medical Examiner's Office, looked into the claim and wrote a letter to Purdue Pharma: 'I am unaware of any reliable data in Kentucky that proves OxyContin is causing a lot of deaths. In the State M.E. Office, we are seeing an increase in the number of deaths from ingesting several different prescription drugs and mixing them with alcohol. OxyContin is sometimes one of these drugs.'"

There was worse to come. As local law enforcement officials and politicians continued to promote the idea that OxyContin abuse was reaching near epidemic proportions in their states, Sandeep Kaushik, a writer for the Cleveland Free Times, decided to dig deeper into the numbers. His article "OxyCon Job: The Media-Made OxyContin Drug Scare" (May 2-8, 2001) won a Cleveland Press Club Award. It was the kind of reporting one would have expected from the Times:

"That figure was given to us by local law enforcement," says Wanda Roberts, U.S. Attorney Famularo's spokeswoman, about the 59 alleged eastern Kentucky deaths. That it was generated by the same police officials who used it to justify Operation OxyFest does not appear to trouble Ms. Roberts, who declined to confirm the figure as accurate.

For confirmation, the Free Times turned to David W. Jones, executive director of the Kentucky State Medical Examiner's

office. He asserts that 'as far as deaths go, I've heard different numbers in different places at different times; I have no idea where these people are getting their facts and figures.' While he stresses that not every drug-related death is necessarily reported to his office, according to his data there were 27 oxycodone-related deaths in the entire state in 2000...

"...Two of the 27 victims, he explains were found to have both oxycodone and alcohol in their bodies, with death caused by the interaction of two nervous system depressants. What's more, 23 others had a head-spinning multiplicity of other drugs in their systems, including highly potent prescription painkillers such as Diludad and Fentanyl, as well as powerful illegal drugs like cocaine and heroin. In the final analysis, Jones reveals, only two of the 27 fatalities can be shown to have been due to the effects of oxycodone alone – not just two in eastern Kentucky, two in the entire state."

(This touched on another problem overlooked by the media – oxycodone, the active ingredient in OxyContin, was also present in Percocet, Percodan, and Tylox which, historically, had been widely abused in rural areas. In 2001, there was no way of knowing whether the oxycodone found in drug overdose cases came from these drugs or OxyContin. Another important fact missed in the feeding frenzy was that the most popularly abused prescription drugs such as Lorcet, Lortab, and Vicodin contained hydrocone.)

When Kaushik pressed Virginia's medical examiner, who had announced an "epidemic" in his state, to break down his cases in similar detail, he became "notably tightlipped," but admitted that a "significant number" had used multiple drugs.

Addressing claims made by local media that OxyContin was the "street drug of choice" in Cleveland, Kaushik revealed that since 1999, the Cleveland police has only filled out eight OxyContin-related incident reports even though they carried out 11,000 drug busts in the city each year.

The Free Times pressed a local drug dealer about the supposed popularity of the painkiller. "I'd never heard of the stuff until a month ago, when one of my customers asked me about it," he replied. "...He showed me an article in the paper that talked about how everyone wanted this s---."

None of this set off alarm bells at the Times, which became, if anything more credulous of law enforcement numbers at the same time as it began to pursue the story as one where a large corporation had recklessly promoted an unsafe product. Without data suggesting that accidental addiction was a problem for pain patients, or that the number of people dying from overdoses was increasing, what did it matter if Purdue Pharma had aggressively marketed their product? Every company aggressively markets their products if it wants to stay in business.

A series of investigative articles followed:

March 5, 2001: "Sales of Painkiller Grew Rapidly, But Success Brought a High Cost"

May 1, 2001: "U.S. Asks Painkiller Maker to Help Curb Wide Abuse"

August 13, 2001: "Maker Chose Not to Use a Drug Abuse Safeguard"

October 28, 2001: "Overdoses of Painkiller are linked to 282 Deaths"

December 10, 2001:
"At Painkiller Trouble Spot, Signs Seen as Alarming Didn't Alarm Drug's Maker"

December 12, 2001: "Official Faults Drug Company For Marketing of Its Painkiller"

December 21, 2001: "Few States Track Prescriptions As Way to Prevent Overdoses"

December 23, 2001: "Doctor to face U.S. Charges In Drug Case"
January 19, 2002, "OxyContin Prescribers Face Charges in Fatal Overdoses"

February 10, 2002: "A Small Town Clinic Looms Large as a Top Source of Disputed Painkillers"

February 20, 2002: "Doctor Guilty in 4 Deaths Tied to a Drug."

The April 15, 2002 scoop appeared to underscore the Times campaign to illustrate the scope of OxyContin abuse: "OxyContin Deaths May Top Early Count." As Barry Meier – the Times' lead reporter on OxyContin - reported,

"The federal Drug Enforcement Administration said last week that an expanded review of autopsy data had suggested that the painkiller OxyContin might have played a role in 464 drug overdose deaths in the last two years, a figure sharply higher than the agency's previous estimates."

Meier noted a number of caveats: The Food and Drug Administration had not reviewed the DEA report, but it advised caution about its conclusions: "We do not believe there is cause for panic," an unnamed FDA official told Meier. Unsurprisingly, Purdue Pharma continued to dispute that OxyContin was, figuratively speaking, a painkiller. Nevertheless, the Times reminded readers that DEA officials believed the abuse of OxyContin had "grown faster than the abuse of any prescription drug in decades."

And by now, the DEA's conviction that Purdue Pharma were marketing a dangerous drug to physicians inadequately trained in pain management and the media's extensive coverage of the "problem" had prompted an investigation by the General Accounting Office (GAO).

Unfortunately, Times readers had to either wait for Barry Meier's 2003 book about OxyContin, "Painkiller," or the General Accounting Office's 2003 report to find out that the DEA's dramatic claim about a sharp increase in OxyContin-related deaths was unreliable. As Meier recounts in chapter 10 of "Painkiller:"

"Laura Nagel [Head of the DEA's Office of Diversion Control] was convinced that when she presented FDA officials with evidence that legitimate pain patients were also dying, they'd be forced to take action. But things didn't turn out that way. Instead when Purdue executives and FDA officials arrived at her office on a day in mid-April to be briefed about the DEA review, Nagel's bombshell blew up in her face.

As Nagel laid out her case, officials of the drugmaker dismissed the data out of hand, saying that there was nothing in it to scientifically support her suggestion that pain patients were overdosing. Purdue scientists pointed out, for instance, that the mere discovery of OxyContin and a tranquilizer like Valium together at an autopsy could just as easily mean that drug abusers took the medications together to customize their high. They also vehemently disputed that the DEA data showed that OxyContin itself was causing fatal overdoses.

Dr. Cynthia McCormick, one of the FDA officials who played a leading role in negotiating changes to OxyContin's label, was also at the DEA meeting, and she sided with Purdue's stance. She believed that the death reports reviewed by the DEA were just too ambiguous to arrive at any conclusions about the safety

of OxyContin; instead it was the FDA's position that OxyContin was safe when taken as directed. We don't believe there is cause for panic," an FDA official told the New York Times after the meeting.

For Nagel, the experience was a crushing one. She had been caught out of her depth and there was nothing for her to fall back on. As a cop she had viewed the death data in terms of black and white, but the picture offered by the medical examiners' reports was far murkier. It was a rookie's mistake, and a big one.

(It's puzzling: The chronology of the FDA's "don't panic" quote would seem to suggest that the DEA's big mistake was known to Meier when wrote his April 15 article for the Times; and yet, the Times story doesn't reflect the sense that the DEA's study had been demolished).

The GAO report, when it came out, was even more damning. The DEA were forced to publicly concede that its data on abuse and diversion were not "reliable, comprehensive, or timely." The DEA also agreed that "OxyContin has not been and is not now considered the most highly abused and diverted prescription drug nationally."

But in the Times' coverage of the GAO's findings ("U.S. Report Faults Maker of OxyContin" January 23, 2004), readers learned nothing of this, or other information which painted safety and diversion issues in a more complex light. Instead, the paper (or rather the Associated Press report that the Times ran) focused solely on Purdue Pharma's failure to gain prior approval for a marketing video from the FDA, and action taken on two marketing violations. It is difficult to read the full report and come away with the sense that these were its most important conclusions.

Finally, in March 2003, there was reliable scientific proof that OxyContin was not the drug killer law enforcement and the news media had made it out to be. The Journal of Analytical Toxicology published a major study of drug abuse deaths showing that just 1.3 percent (or 12 cases) resulted solely from OxyContin. Based on autopsy reports from 23 states between 1999 and 2001, the vast majority of oxycodone related deaths (96.7 percent or 919 deaths) had multiple drugs in their systems at the time of death. The study was funded by Purdue Pharma, but it was conducted by scientists not employed by the company and then subjected to peer-review before publication in a leading journal. The study was also accompanied by a commentary from the former president of the National Association of Medical Examiners praising its methodology.

Only the Los Angeles Times covered the release of the JAT study.

By September 2003, the New York Times was allowing even wilder claims about OxyContin to go unchallenged or uncorrected in its pages. In a September 11 story on the FDA rejecting "pleas from members of Congress and drug enforcement officials that sales of the widely abused painkiller OxyContin be severely restricted," the paper reported that a panel member "estimated" that "OxyContin is responsible for 500 to 1,000 deaths a year." No attempt to determine the actual number of deaths was made, even though there was now abundant empirical evidence to demonstrate that such figures were way off base.

And it's not as if Times editors weren't aware that the JAT study existed. On September 20, the paper printed a letter from doctor Sally Satel which referred to the JAT study's results. In case there was any doubt about Satel explained that "this means that oxycodone-related deaths overwhelmingly occur in drug-abusing individuals and rarely is OxyContin an exclusive cause of death.

There was one other statistic that was clarified in September 2003. The increase in numbers of emergency room visits involving oxycodone cited by the Times back in February 9, 2001 was finally disaggregated by the Drug Abuse Warning Network.

The Times originally pointed out that "such visits doubled from 3,190 in 1996 to 6,429 in 1999, the period that corresponds with OxyContin's introduction and marketing. The data indicated that deaths attributed to oxycodone products also grew in that period."

In fact, the disaggregated DAWN data show that the number of actual OxyContin "mentions" (that is, the number of times OxyContin was recorded in an emergency department visit due to drug abuse or a suicide attempt) went from zero in 1996 to four in 1997 to 527 in 1998 to 1,178 in 1999. The most dramatic increase occurred between 2000 and 2002, when the number of mentions went from 2,772 to 9,998 in 2001 and then to 14, 087 in 2002.

In other words, there was a correlation between the media's frenetic coverage of OxyContin, which began during the February 2001 sweeps, and the sharp increase in emergency room mentions of abuse during and after this time period. (Which makes sense, as many of the news reports explained how to defeat OxyContin's time-release feature. As Shales noted in 2001, "...in the course of 'reporting' on abuse of the drug, they've all aired how-to pieces that include handy, easy-to-follow instructions on the correct abuse procedure. They tell you how to get high. Then the correspondents do follow-up reports expressing shock and dismay that the abuse is becoming more popular.")

But still, the Times was impervious to any information or any storyline that called that accuracy of its reporting on OxyContin into question.

On November 23, 2003, in what would be the last piece he wrote for the Times on the painkiller, Barry Meier examined the issue of 'iatrogenic' or accidental addiction to prescription opioids such as OxyContin. As STATS has previously [noted](#), in charging that the medical community has understated the problem of accidental addiction, Meier selectively quoted from a letter in the May 2001 issue of the Journal of Pain and Symptom Management by one of America's top pain experts, Dr. Steven D. Passik.

Passik told STATS that Meier "misportrayed" his position on accidental addiction, and that despite trying "to set him straight" on the problem of pain treatment and abuse, the Times reporter appeared to be interested in only one side of the story. Where there is "a lot of gray," Passik said, Meier "sees only black and white."

Even when the Times assigns a different reporter to covering the issue of prescription drug abuse, the approach is the same. A major article by Michael Janofsky on prescription drug abuse for the March 18 edition of the Times, wrote "Rural areas and other regions where many are employed in physical labor have been hit especially hard by the growing popularity of OxyContin and other painkillers." Once again, Again, anecdotal testimony from law enforcement rules the day. "These drugs are everywhere," says a Virginia cop.

Prescription drug abuse is not new. To be fair to Janofsky, he made that abundantly clear. The problem is whether tens of millions of Americans (which even the DEA admits are being under-treated for pain) are suffering unnecessarily because there is an intractable base rate of addiction in America. As Doctor Passik put it in his letter, "With 6 to 15% of the U.S. population having a drug problem, any highly available opioid will be sought by this proportionately small fraction of the population, which actually represents millions of substance

abusers... Because 6 to 15% of the U.S. population abuses drugs, the history of pain management is marked by the undertreatment of the other 84 to 94% of the population, and we do not want to go back to the bad old days."

Presently, almost every medical authority considers the risk of iatrogenic addiction from opioids to be very small, or very rare, or minimal. Such authorities include the U.S. Department of Health and Human Services, the National Academy of Science's Institute of Medicine, the National Institute of Drug Abuse, the World Health Organization, and the American Medical Association.

The idea that treating chronic pain is a one-way ticket to acute opioid addiction may not quite be this decade's equivalent of recovered memory syndrome and the illusory epidemic of satanic child abuse, but it's close. Doctors are now afraid they're going to have DEA agents pounding down their doors if they are perceived to be over-prescribing painkillers. The Department of Justice is your new HMO. And trial lawyers? Let's just say that iatrogenic addiction is a pot of gold at the end of a psychedelic rainbow.

So far, most of the media has gone along with the storyline that the doctors who have been prosecuted for running pill mills are guilty and deserve what they get. As a result, pain is becoming the ailment no doctor wants to touch.

The good news is that common sense, scientific knowledge and the law are beginning to slow down over-eager federal prosecutors. The Judge in the case of three South Carolina doctors sentenced to prison for over-prescribing painkillers has allowed them to remain free while their lawyers investigate the possibility of a miscarriage of justice. One of the doctors, Deborah Bordeaux is being represented by [Eli Stutsman](#) (of Oregon v Ashcroft fame) and the [Pain Relief Network](#), which recently helped to bring about a bipartisan defeat of Governor Jeb Bush's plans for tracking prescriptions in Florida (State Republicans didn't like the bill because it opened the way to state and federal government tracking gun purchases).

On May 20, the San Francisco Chronicle reported [the collapse](#) of one of "first and most ambitious prosecutions in the country involving doctors accused of over-prescribing pain medications." Harvard Medical School graduate and Shasta County Physician Dr. Frank B. Fisher was acquitted of the final criminal charges in a prosecution that had at one time included murder charges related to overdose deaths.

In December 2003, the Times newly appointed Public Editor, Daniel Okrent, looked at complaints made by Purdue Pharma about Barry Meier's reporting. "...After reading through Meier's work and the company's detailed rebuttals, and after talking to authorities both parties directed me to, I believe Meier's reporting was generally accurate and fair, even if the way some of the pieces were played - placement, headline, frequency, etc. - sometimes seemed the work of an especially ferocious terrier that had gotten its teeth into someone's ankle."

Okrent's judgement was a masterful piece of obfuscation. Yes, Meier (and in part Francis X. Clines) were accurate, if you understand accuracy as correctly reporting people telling you stuff that they believed was true but which in fact wasn't. And yes, the reporting was fair too, in that it offered Purdue a chance to get its two cents into print (although there are serious question marks over Meier's failure to divulge the DEA's flawed numbers to Times readers and his selective quotation from Passik's letter). But the credulity, the failure to follow the numbers, the failure to evaluate the evidence, is astonishing.

Okrent also neglected to examine two of the most troubling aspects of the Times' OxyContin obsession that went beyond Meier's reporting: the selective coverage of the GAO's findings on OxyContin abuse and diversion and the paper's decision not to report the JAT study. These were the most authoritative studies to emerge from the public and political hand-wringing over OxyContin, and they refuted or called into question much that the Times had reported.

In sum, it is hard to see what the Times got right in its coverage of OxyContin. Like the supposed existence of WMDs, the apparent epidemic of OxyContin abuse in America has led to a war. And it's a war that America will lose, if people in pain cannot go to their local physician and get the treatment they need to make life bearable. The Times apologized for exaggerating the threat of WMDs in Iraq; it can do the same with OxyContin.

#####

STATS at George Mason University, monitors the media to expose the abuse of science and statistics before people are misled and public policy is distorted.

Since 1994, STATS has sought to hold U.S. journalists to the highest standards of reporting accuracy, while providing them with concrete assistance to help them better understand the complexities and limitations of scientific and statistical material.

STATS' work has been featured on NBC's "Nightly News," "The NewsHour with Jim Lehrer" and ABC's "20/20" - and in print by The New York Times, Wall Street Journal, Washington Post, US News and World Report, New Scientist, New England Journal of Medicine, and many other publications.

Our present focus is on the following policy areas: education and child rearing, drug use and abuse, public health and disease, polls and surveys, gender issues, crime and defense.

STATS is a non-profit, non-partisan organization affiliated with The Center for Media and Public Affairs