

United States Senate
WASHINGTON, DC 20510

April 7, 2020

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Barr:

We write to express our serious concern regarding the unconscionable price gouging and hoarding of essential medical supplies during the coronavirus (COVID-19) pandemic, to urge the Justice Department to vigorously enforce Executive Order 13910 (the Executive Order), which was issued to help prevent such conduct, and to request information about the Department's current and planned efforts to address this problem.¹

Millions are struggling to deal with the effects of this epidemic, which is responsible for the deaths of more than 10,900 Americans and for infecting thousands more.² As schools and businesses close and members of the public shelter in their homes to limit the spread of the virus, certain unscrupulous actors are taking advantage of the crisis to make money off of the suffering of others. Weeks ago, during the initial stages of the pandemic, we began to see troubling reports of price gouging and hoarding of all kinds of products, including essential medical supplies that health care workers need to diagnose, treat, and stem the spread of COVID-19. Such practices not only impose unjustifiable costs on those who need these medical and health supplies, they also exacerbate existing supply shortages, threatening public health and safety.

As states with laws against price gouging began taking action and members of Congress began considering federal legislation to address the problem nationwide, Executive Order 13910 was issued. To address the hoarding of health and medical resources necessary to respond to the spread of COVID-19, the Executive Order delegates to the Secretary of Health and Human Services (HHS) the ability "to designate any material as a scarce material, or as a material the supply of which would be threatened by persons accumulating the material either in excess of reasonable demands of business, personal, or home consumption, or for the purpose of resale at prices in excess of prevailing market prices." On March 25, HHS issued a notice designating a number of health and medical resources as "scarce" or "threatened," including certain face and other respirators, ventilators, personal protective equipment, disinfecting devices, and other resources.³

¹ Executive Order 13910 of March 23, 2020, Preventing Hoarding of Health and Medical Resources To Respond to the Spread of COVID-19, 85 Fed. Reg. 17,001 (Mar. 26, 2020), at <https://www.govinfo.gov/content/pkg/FR-2020-03-26/pdf/2020-06478.pdf>.

² Mitch Smith et al, "Coronavirus in the U.S.: Latest Map and Case Count," N.Y. TIMES, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html> (last accessed April 7, 2020).

³ Department of Health and Human Services, Notice of Designation of Scarce Materials or Threatened Materials Subject to COVID-19 Hoarding Prevention Measures Under Executive Order 13910 and Section 102 of the Defense

The Justice Department has the authority to enforce the Executive Order and prosecute violators criminally. The ultimate effectiveness of the Executive Order in preventing hoarding and price gouging relating to essential health and medical resources will depend on the enforcement efforts of the Justice Department and effective coordination between the Department, HHS, the Federal Emergency Management Agency (FEMA), and state enforcement authorities. Accordingly, we respectfully ask that the Justice Department provide responses to each of the following requests:

1. Please describe the Department's efforts to date and its plans to investigate and prosecute illegal hoarding and price gouging of health and medical resources under the Executive Order, including a description of how the Department plans to identify potential violations and how it will decide which matters to prioritize.
2. Please detail the human resources that the Department, including the United States Attorneys' Offices, is and will be devoting to enforcing the Executive Order, and describe what personnel will be directing and coordinating Department efforts to ensure compliance with the Executive Order.
3. Please describe how and to what extent the Department intends to coordinate with HHS, FEMA, and other federal agencies to ensure compliance with the Executive Order, including any efforts to identify additional health and medical materials that should be designated as "scarce" or "threatened" by the Secretary of HHS as the COVID-19 pandemic continues.
4. Please describe how the Department intends to coordinate its investigatory and enforcement efforts with those of state and local enforcement authorities with the authority to investigate the same or similar conduct to ensure that unlawful hoarding and price gouging activity across the country is identified and vigorously prosecuted in an efficient manner.

Thank you for your urgent attention to this matter.

Sincerely,



Amy Klobuchar
United States Senator



Chuck Grassley
United States Senator