

**TESTIMONY BEFORE UNITED STATES SENATE
COMMITTEE ON FINANCE
SUBCOMMITTEE ON HEALTH CARE FINANCE
October 15, 2015**

“Resolving illegal prescription drug abuse in Washington County, Pennsylvania”

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INTRODUCTION:

GOOD AFTERNOON, I WOULD LIKE TO THANK CHAIRMAN, SENATOR PAT TOOMEY FOR THE HONOR AND OPPORTUNITY TO PROVIDE TESTIMONY TO THE COMMITTEE. I FIRST MET THE SENATOR LAST YEAR WHEN HE CONVENED A WORKING PANEL IN WASHINGTON COUNTY TO ADDRESS THE INCREASING PROBLEM OF ADDICTION IN OUR COUNTRY. HE IS TRULY A CHAMPION IN THIS AREA AND I THANK HIM FOR HIS RECOGNITION AND DEDICATION TO RESOLVING THIS DEADLY NATIONAL PROBLEM.

I WOULD BE REMISS IF I DID NOT ALSO THANK OUR LOCAL UNITED STATES ATTORNEY DAVID HICKTON FOR HIS LEADERSHIP AND ASSISTANCE ON THE PROBLEM OF OPIATE ABUSE. MR. HICKTON IS ALSO A CHAMPION AND A GREAT PARTNER FOR LAW ENFORCEMENT WHO ARE ON THE FRONT LINES FIGHTING THE EPIDEMIC OF OPIATE DRUG ABUSE.

IT IS NO SECRET THAT OUR NATION IS IN THE MIDST OF AN EPIDEMIC OF DRUG RELATED DEATHS CAUSED BY PRESCRIPTION DRUG ABUSE. THIS IS BOTH A PUBLIC HEALTH AND A PUBLIC SAFETY CRISIS. MANY THOUSANDS HAVE DIED DUE TO OVERDOSES CAUSED BY OPIATE DRUGS AND HEROIN. WASHINGTON COUNTY IS NOT IMMUNE FROM THIS PERIL. SINCE 2011, MORE THAN 230 WASHINGTON COUNTY RESIDENTS HAVE LOST THEIR LIVES DUE TO ACCIDENTAL POISONING CAUSED BY OPIATE DRUGS. IN AUGUST OF THIS YEAR, WE HAD A SPATE OF DRUG OVERDOSES CAUSED BY FENTANYL LACED HEROIN WHICH CLAIMED SEVERAL LIVES AND PLACED WASHINGTON COUNTY IN THE NATIONAL NEWS. THIS EPIDEMIC HOWEVER GOES BEYOND THE OVERDOSES DEATHS CAUSED BY OPIATE ABUSE. THE EPIDEMIC ALSO SIGNIFICANTLY IMPACTS THE AREA WHERE I WORK WHICH IS THE CRIMINAL JUSTICE SYSTEM.

I RECENTLY CONDUCTED A STATISTICAL REVIEW OF THE CRIMINAL CASE FILINGS FOR 2014 AND DISCOVERED THAT AT LEAST 75% OF THE FILED CASES HAD A CONNECTION TO DRUGS AND ALCOHOL. 30% OF OUR CASES WERE DIRECTLY LINKED TO OPIATE ABUSE BOTH PILLS AND HEROIN. THIS IS ROUGHLY EQUIVALENT TO THE NUMBER OF CASES THAT WE HAVE ARISING FROM ALCOHOL INCLUDING DRIVING UNDER THE INFLUENCE. FROM MY 17 YEARS WORKING IN THE WASHINGTON COUNTY DISTRICT ATTORNEYS OFFICE, I CAN ASSURE YOU THAT THIS IS A NEW EVENT. NOT TOO LONG AGO, IT WAS RARE TO SEE A HEROIN CASE IN COURT—NOW IT IS RARE NOT TO HAVE A CASE INVOLVING HEROIN OR SOMEONE IN OPIATE ADDICTION..

OUR CORONER TIM WARCO HAS BEEN VERY GOOD ABOUT DOCUMENTING THE TOLL ARISING FROM THIS EPIDEMIC. A REVIEW OF HIS DATA ABOUT THE DEATHS OVER THE PAST FIVE YEARS INDICATES THAT THIS IS A PROBLEM NOT JUST FOR YOUNG PEOPLE BUT FOR ALL AGE RANGES. 41% OF

OUR DEATHS WERE PEOPLE OVER THE AGE OF FORTY. 46% WERE FROM A COMBINATION OF TWO OR MORE DRUGS AND WHY WE ARE HERE TODAY, 57% WERE FROM PRESCRIPTION MEDICATIONS.

THE CONNECTION BETWEEN OPIOID MEDICATION ABUSE AND HEROIN IS WELL ESTABLISHED. AS LOCAL LAW ENFORCEMENT PROFESSIONALS WE HAVE HAD TO BECOME EDUCATED IN MANY DIFFERENT AREAS OF THE LAW ---WHICH WERE NOT KNOWN TO US IN ORDER TO FIGHT THE ABUSE OF THESE MEDICATIONS. WE HAVE RESPONDED IN WASHINGTON COUNTY WITH NUMEROUS DRUG EDUCATIONAL SUMMITS AT LOCAL SCHOOLS TO WARN CHILDREN OF THE DANGERS OF ABUSE OF PHARMACEUTIUCALS, WE HAVE DROP BOXES FOR UNWANTED MEDICATIONS IN OUR POLICE STATIONS, WE HAVE EMBEDDED A FEDERAL PROSECUTOR IN OUR OFFICE TO AGGRESSIVELY GO AFTER DRUG DEALERS, AND WE HAVE HEIGHTENED AND PROMOTED TREATMENT FOR NON-VIOLENT CRIMINAL OFFENDERS. THESE MEASURES ARE DESIGNED TO WORK ON BOTH THE SUPPLY SIDE AND DEMAND SIDE OF THE EPIDEMIC. WHILE I AM PROUD OF WHAT WE HAVE DONE THUS FAR---I FEAR THAT THESE MEASURES WILL NOT BE SUFFICIENT ALONE TO ELIMINATE THE PROBLEMS OF RAMPANT OPIATE ADDICTION.

LAST FALL, THE PENNSYLVANIA GENERAL ASSEMBLY ENACTED LEGISLATION PROVIDING FOR AN IMPROVED PRESCRIPTION DRUG MONITORING PROGRAM. (PDMP). THIS LEGISLATION WAS SORELY NEEDED AS OUR OLD SYSTEM WAS INADEQUATE TO INFORM HEALTH CARE PROVIDERS OF WHO WAS RECEIVING WHAT OPIOID MEDICATIONS. SINCE THAT LEGISLATION WAS PASSED, THE PMDP HAS NOT COME INTO BEING LARGELY DUE TO THE FACT THAT NO MONEY WAS SET ASIDE FOR ITS DEVELOPMENT. STATE REPRESENTATIVE, BRANDON NEUMAN HAS INDICATED TO ME THAT SOME FEDERAL FUNDING HAS BECOME AVAILABLE TO INITIATE THE WORK OF DEVELOPMENT OF THE PMDP. SB 480 WHICH REAUTHORIZES THE NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING REAUTHORIZATION ACT WOULD HELP PENNSYLVANIA'S PMDP. THIS WOULD ALSO PROVIDE FOR IMPROVED COMMUNICATION WITH NEIGHBORING STATES TO PREVENT PRESCRIPTION MEDICATION DIVERSION. IT IS IMPERATIVE THAT THIS BE DONE AS SOON AS POSSIBLE AS PENNSYLVANIA HAS BECOME A SOURCE LOCATION FOR THOSE COMING FROM OTHER STATES LOOKING TO ACQUIRING OPIOID MEDICATIONS THROUGH DIVERSION.

WASHINGTON COUNTY SITS IN THE SOUTHWESTERN CORNER OF THE PENNSYLVANIA AND IS CLOSE TO MARYLAND, OHIO AND ABUTS WEST VIRGINIA ALONG ITS WESTERN EDGE. DUE TO OUR GEOGRAPHICAL LOCATION WE ARE AN EASY DRIVE FOR THOSE LOOKING TO ACQUIRE MEDICATIONS. WHETHER THEY ARE LOOKING TO USE FORGED PRESCRIPTIONS OR PRESCRIPTIONS ACQUIRED THROUGH DOCTOR SHOPPING. IN 2012, MY OFFICE IN COMBINATION WITH OTHER LAW ENFORCEMENT AGENCIES ARRESTED 12 INDIVIDUALS WHO WERE ACQUIRING PILLS IN 7 DIFFERENT PENNSYLVANIA COUNTIES. THEY WERE TRAVELING AS FAR NORTH AS THE NEW YORK STATE LINE AND TO THE EAST AS FAR AS CHAMBERSBURG. THAT SCHEME WASN'T TOO SOPHISTICATED- THEY WOULD SIMPLY GO TO DIFFERENT PHYSICIANS---CLAIM PAIN AND OBTAIN PRESCRIPTIONS WHICH THEY WOULD THEN ALTER. THEY WERE ALSO MANUFACTURING PRESCRIPTIONS UTILIZING A SCANNER AND COMPUTER. THEY OPERATED FOR AT LEAST A YEAR AND ACQUIRED TENS OF THOUSANDS OF PILLS OF OPANA, OXYCONTIN AND OTHER MEDICATIONS BEFORE THEY WERE ARRESTED. THERE IS NO DOUBT THAT THEY WOULD HAD BEEN DETECTED SOONER HAD A PMDP BEEN IN PLACE. THEY ALSO WOULD

NOT HAVE BEEN ABLE TO UTILIZE THIRD PARTY INSURANCE TO PAY FOR THE MEDICATIONS IF A "LOCK" HAD BEEN IN PLACE TO PREVENT THEM FROM DOCTOR SHOPPING.

THERE IS ALSO AN EMERGING TREND WE ARE SEEING IN THE DIVERSION OF SUBOXONE WHICH IS A DRUG UTILIZED IN MEDICATION ASSISTED TREATMENT OF PEOPLE WITH OPIATE ADDICTION. TRADITIONALLY, METHADONE WAS UTILIZED TO WEAN PEOPLE OFF OF HEROIN. SUBOXONE IS ALSO AN OPIATE BUT IS PRESCRIBED TO PEOPLE IN AN ATTEMPT TO LESSEN THE EFFECTS OF WITHDRAWAL AND HELP THEM IN RECOVERY. I HAVE HEARD REPORTS OF INCREASED CRIMINAL ACTIVITY NEAR SUBOXONE CLINICS AND RECENTLY, WE HAVE MADE ARRESTS OF INDIVIDUALS SELLING SUBOXONE ON THE STREET.

IN 2012, A PHYSICIAN OLIVER HERNDON WAS ARRESTED AND CHARGED WITH DISPENSING POWERFUL OPIATE DRUGS, OXYCODONE AND OXY MORPHONE. ACCORDING TO DEA AGENTS WHO INVESTIGATED-- DR. HERNDON WAS ONE OF THE LARGEST SUPPLIERS OF DIVERTED OPANA IN THE EASTERN UNITED STATES. HIS PARKING LOT HAD CARS FROM MANY DIFFERENT STATES AND INDIVIDUALS CAME FROM OUT OF STATE TO GET PRESCRIPTIONS FILLED. MANY PHARMACIES INDEPENDENTLY REFUSED TO FILL THE LARGE PRESCRIPTIONS THAT WERE WRITTEN. DURING ONE VISIT BY AN UNDERCOVER WHEN ASKED WHERE HIS PRESCRIPTION COULD BE FILLED WAS TOLD BY HERNDON THE FURTHER AWAY THAT HE COULD GET THE PRESCRIPTION FILLED THE EASIER IT WOULD BE. INVESTIGATORS LEARNED THAT MANY OF THE PILLS WERE BEING SOLD ON THE STREET AND WERE SURPRISED TO LEARN THAT ONCE HERNDON WAS ARRESTED THE PRICE OF OPANA DOUBLED ON THE STREET. HERNDON PROVIDED A LETTER TO HIS PATIENTS DENYING THAT HE WAS UNDER DEA INVESTIGATION AND INDICATING THAT HE WAS THE MEDICAL DIRECTOR FOR A HOSPICE ORGANIZATION AND TWO NURSING HOMES. HERNDON WAS SUCCESSFULLY PROSECUTED IN FEDERAL COURT FOR THE DRUG ACT VIOLATIONS AND ALSO FOR INSURANCE FRAUD FROM THE HUNDREDS OF THOUSANDS OF DOLLARS THAT WERE FRAUDULENTLY SUBMITTED AS CLAIMS.

I INDICATED EARLIER THAT OVER 50% OF THE PEOPLE WHO DIE FROM OVERDOSES ARE OVER THE AGE OF 40. I JUST SPOKE ABOUT A DOCTOR WHO WAS SUPPLYING PILLS TO PEOPLE OF ALL AGES AND WAS ALSO MEDICAL DIRECTOR FOR TWO NURSING HOMES AND A HOSPICE ORGANIZATION. THESE FACTS EMPHASIZE THE NEED FOR A LOCK PROVISION IN HEALTH INSURANCE POLICIES PARTICULARLY MEDICARE WHICH REQUIRE A PATIENT WITH A DRUG ABUSE MEDICAL HISTORY TO "LOCK IN" WITH A PARTICULAR PHYSICIAN AND PHARMACY. THIS WOULD HELP ELIMINATE DIVERSION OF MEDICATIONS AND THE PRESCRIBING PATTERNS MAY BE CLEARLY EVALUATED. THIS WOULD REDUCE MEDICARE FRAUD ATTRIBUTABLE TO THE FILING OF FALSE CLAIMS AND DIVERSION OF MEDICATIONS. THIS LOCK IN PROVISION IS THE CENTERPIECE OF S.B. 1913 ENTITLED THE STOPPING MEDICATION ABUSE AND PROTECTING SENIORS ACT SPONSORED BY CHAIRMAN TOOMEY.

IN CLOSING, I AM THANKFUL FOR THE OPPORTUNITY TO ADDRESS THE COMMITTEE TODAY AND TALK ABOUT THIS IMPORTANT CHALLENGE WHICH IS FACING WASHINGTON COUNTY AND OUR NATION. IN THE FOUR YEARS WHICH I HAVE BEEN LEARNING ABOUT THE EPIDEMIC AND ATTEMPTING TO DEVELOP THE MEANS TO FIGHT THIS PROBLEM I HAVE LEARNED MANY THINGS. MUCH OF WHAT WE HAVE LEARNED HAS BEEN PUT INTO PRACTICE AS AN EVER-EVOLVING PLAN OF ACTION. I HAVE

HAD TO ACCEPT THAT AS A LAW ENFORCEMENT PROFESSIONAL, I CANNOT MAKE THIS PROBLEM GO AWAY BY MYSELF. I CANNOT STOP THE ACCIDENTAL OVERDOSE DEATHS AND DEVASTATION CAUSED BY THE ADDICTION SWEEPING OUR NATION. I NEED THE HELP OF ALL LEVELS OF GOVERNMENT IN COMBATTING THIS PROBLEM. I PRAY FOR CONSISTENCY IN THE VARIOUS REGULATORY AGENCIES INVOLVED WITH THE REGULATION OF THESE POWERFUL MEDICATIONS AND I LOOK FOR A FASTER RESPONSE TO PROBLEMS ONCE THEY ARE IDENTIFIED. I AM JUST ONE DISTRICT ATTORNEY IN A COUNTY IN PENNSYLVANIA, BUT THERE ARE MANY MORE LIKE ME FACING THE SAME CRISIS AND WE NEED THE ABILITY TO DO OUR JOBS AND MAINTAIN THE CRIMINAL JUSTICE SYSTEM IN THE WAKE OF THE INCREASED DEMANDS CREATED BY THE OPIATE EPIDEMIC. THOSE OF US IN LAW ENFORCEMENT, WHO ARE ON THE FRONT LINES OF THE OPIATE EPIDEMIC, WILL CONTINUE TO ENFORCE THE LAW AND DO OUR BEST TO PROTECT THE PUBLIC WE SERVE.

THANK YOU

STATISTICAL REVIEW OF CRIMINAL CASE FILINGS IN WASHINGTON COUNTY

Study Design- A statistical sample representing a 95% confidence interval was taken from the 3,377 criminal cases filed in Washington County in 2014. The goal was to determine within a measure of certainty the number of cases driven by drugs and the specific drugs which drove the criminal case. The sample size was 345 cases. 345 numbers were drawn randomly from an internet randomization service and criminal complaints and affidavits of probable cause for each of the specific cases corresponding to the randomly generated numbers were reviewed. Note was made of the charges filed, the police department and any mention of a drug in the original criminal complaint. These results were tallied and are given below.

Limitations - In many cases, a specific drug may not be named in the criminal complaint as the use of a drug may not be relevant to the crime charged. For example, in a possession case the type of drug would be relevant; in a theft case, the fact that the offender had a drug problem would not be an element of the crime charged. This limitation on the study design would mean that the results demonstrated are more likely than not higher than indicated below.

Results- A tabulation of a statistically valid sample of criminal case filings for Washington County in 2014 yielded the following results:

Offenders use of a drug-	74.78% of the cases	(258/345)
Type of drug		
Prescription medication-	7.25% of the cases	(25/345)
Heroin	22.61% of the cases	(78/345)
Cocaine	2.9% of the cases	(10/345)
Alcohol	32.17% of the cases	(111/345)
Cannabis	9.86% of the cases	(34/345)

Discussion: The results demonstrate that alcohol is still the most commonly abused drug resulting in criminal charges. DUIs and alcohol based crimes account for almost a third of the criminal cases filed in Washington County. Heroin is the second most commonly implicated drug in criminal cases. Use of an illicit drug other than alcohol resulted in 42.6% of the criminal cases filed in Washington County. The correlation between offender drug use and criminal activity has been well documented and the data produced in this statistical review of the filings in Washington County serves to support this correlation.

Other results:

Felony charge filed	25.79%	(89/345)
Misdemeanors	74.21%	(256/345)
Domestic violence crime	5.5%	(19/345)
Child Abuse	3.18%	(11/345)

ACCIDENTAL OVERDOSE DEATHS IN WASHINGTON COUNTY
2011-2015

Year	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>Total</u>	
total deaths	46	40	58	36	50	<u>230</u>	
combined drugs	29	22	12	19	25	<u>107</u>	46.52%
prescription meds	33	22	26	27	23	<u>131</u>	56.96%
<u>Number of drugs found on toxocology</u>							
1	17	22	46	17	19	<u>121</u>	53.07%
2	14	7	6	9	18	<u>54</u>	23.68%
3	15	7	0	5	6	<u>33</u>	14.47%
4	0	4	6	4	1	<u>15</u>	6.58%
5 or more	0	0	0	1	0	<u>1</u>	0.44%
<u>Gender</u>							
male	30	23	36	23	35	<u>147</u>	65.04%
female	16	13	22	13	15	<u>79</u>	34.96%
<u>Age</u>							
<19	14	2	1	2	1	<u>20</u>	9.09%
<29	0	3	25	5	10	<u>43</u>	19.55%
<39	10	12	10	12	15	<u>59</u>	26.82%
<49	13	13	16	6	10	<u>58</u>	26.36%
<59	7	5	5	8	8	<u>33</u>	15.00%
>60	2	1	1	3	0	<u>7</u>	3.18%

Source:

Washington County Coroners Office

Timothy Warco, Coroner

<http://www.co.washington.pa.us/index.aspx?NID=386>