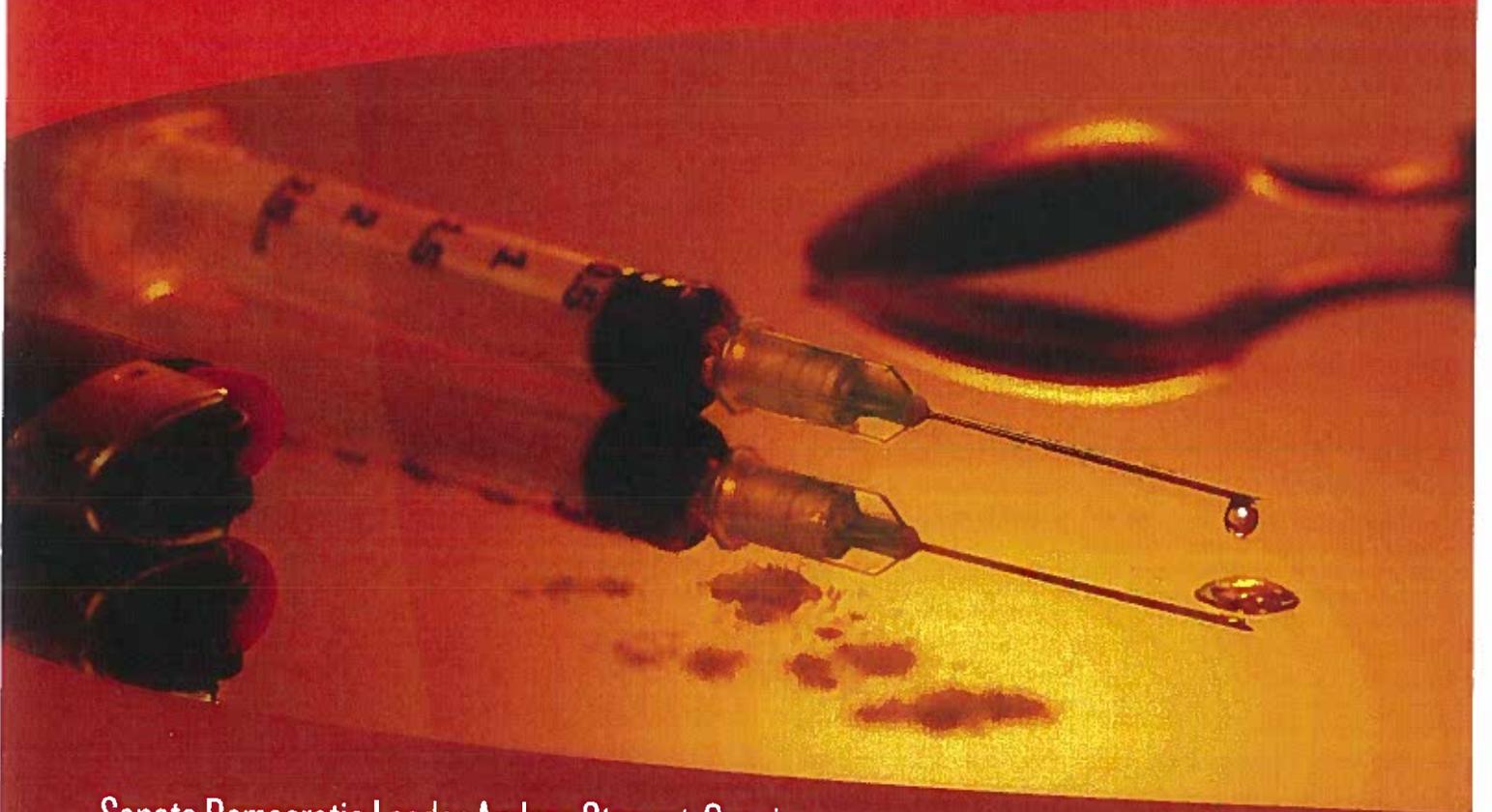


New York's Heroin Addiction Crisis

A report highlighting a forum held to raise public awareness on the opioid abuse and the emergence of heroin in New York



Senate Democratic Leader Andrea Stewart-Cousins

Senator Neil Breslin

Senator Terry Gipson

Senator Timothy Kennedy

Senator Velmanette Montgomery

Senator Kevin Parker

Senator Cecilia Tkaczyk



Executive Summary

The recent resurgence of heroin as a recreational drug of choice has directly contributed to the alarming spread of its use, extending from New York's urban centers to its suburban and rural communities. In response, members of the New York State Senate Democratic Conference held a public forum to examine the pervasive issue and seek viable public policy solutions. The forum was hosted by Senator Neil Breslin, who was joined by Senators Kevin Parker, Velmanette Montgomery and Cecilia Tkaczyk, and took place in Albany on December 17, 2013.

The purpose of the forum was to raise public awareness, with a particular emphasis on the rural and suburban regions of Upstate New York. It brought together a broad spectrum of experts who deal with heroin addiction on a daily basis, including: emergency service and medical entities, law enforcement, members of the court system, family members of those addicted, as well as a recovering addict. They testified to their personal and professional experiences, and responded to questions about how public policy can address the increased incidence of usage in the Capital District.

What has emerged is a package of legislation designed to address specific areas of concern identified at the forum which fall under three broad categories: 1) treating heroin addiction primarily as a public health, rather than criminal justice, issue; 2) raising public awareness, particularly among a target audience of young adults who are most susceptible to experimenting with drugs; and 3) allocating the necessary resources for the implementation of prevention and treatment programs. One bill will redirect the savings from prison closures in New York – due in large part to the decline in low-level drug offenders in the prison population – to badly needed treatment and prevention programs. Two other bills will require insurance carriers in New York to cover up to 90 days of inpatient treatment for those who have an opioid dependency, and addiction treatment medications. Another piece of the package is legislation that will require the Office of Alcohol and Substance Abuse Services (OASAS) to create a public awareness and educational program on the dangers and costs of heroin use, and allocates the funds necessary for such program. The program must be designed to address specific aspects of heroin addiction, with educational spots disseminated through every possible avenue to reach the broadest audience with regard to the general problem, and targeted audiences with regard to specific educational content. A fifth bill will provide for an “opioid antagonist,” such as Naloxone, to be available at two points of critical intervention - to all first responders for use in the field, and for rehabilitation facilities to make available to the families of patients upon discharge after inpatient care. Finally, the package contains a bill that increases the penalty for a dealer who sells an opioid that results in a death.

I. Background

Heroin addiction is approaching epidemic proportions on the national level. No longer the relatively isolated inner-city phenomenon associated with the 1960s and 70s counterculture, it is reaching into suburban and rural communities with devastating impact among teenagers and young adults. This resurgence can be attributed, at least in part, to the nationwide crackdown on prescription drugs, which have become less accessible, and consequently more expensive, as a result of vigorous and innovative new tracking programs. Restricting the market for opioid pain pills, however, does not necessarily reduce the demand for them, and heroin is an attractive substitute to feed the addictions of those who have developed opioid dependency.¹ Once addicted to opioids, users turn to whatever is most readily available, and when prescription drugs became scarce and expensive, heroin became the new drug of choice.

This prescription drug-to-heroin, urban-to-suburban shift has heretofore not been widely acknowledged, and therefore not adequately addressed by policymakers. That is now changing as personal experience, statistics and some high-profile tragedies is forcing society out of its collective denial. The observation of Chicago Police Captain John Roberts, whose 14-year-old son was immediately introduced to heroin when the family moved to the suburbs, and died of an overdose, is particularly perceptive. "Kids in the city know not to touch it, but the message never got out to the suburbs," said Roberts, who founded the Heroin Epidemic Relief Organization (HERO) to help other families cope with the shock of teen heroin use.² A 2013 study by the Substance Abuse and Mental Health Services Administration (SAMHSA) found that four out of five first-time heroin users (79.5%) had previously used prescription pain relievers in a non-medical manner.³ SAMHSA's findings in an earlier study highlighted perhaps the most troubling aspect of heroin addiction today, showing that initial use of heroin had nearly doubled – rising from 373,000 to 669,000 – between 2007 and 2012.⁴

Here in New York, where the implementation of the Internet System for Tracking Over-Prescribing (I-STOP) has successfully restricted the availability of prescription drugs, the heroin which has now become available on the market is cheaper, stronger, and more addictive than its 1970s counterpart or the prescription opioids it is displacing.⁵ In the past three years, heroin use by 17- to 25-year-olds has exploded,⁶ and the issue is compounded by the aggressiveness of heroin dealers, who target younger buyers with such marketing techniques as providing buyers with heroin bags stamped with brands and logos that appeal to teens.⁷ The effect has been devastating. Heroin is now the most commonly cited drug among primary drug treatment admissions in the state, comprising more than one third (36%) of the total in 2011.⁸ Figure 1, based on the latest data available from SAMHSA, shows the precipitous decline in the use of

¹ Dr. Bruce Maslack, addiction specialist at St. Mary's Hospital in Amsterdam.

² http://dailynightly.nbcnews.com/_news/2012/06/19/12303942-painkiller-use-breeds-new-face-of-heroin-addiction?lite

³ <http://www.samhsa.gov/data/2k13/DataReview/DR006/nonmedical-pain-reliever-use-2013.pdf>

⁴ <http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/NationalFindings/NSDUHresults2012.htm>

⁵ Tucker, Kumi. "WNYT.com - High Cost of Heroin Epidemic." WNYT.com. February 24, 2014. Accessed March 17, 2014. <http://wnyt.com/article/stories/s3338024.shtml>.

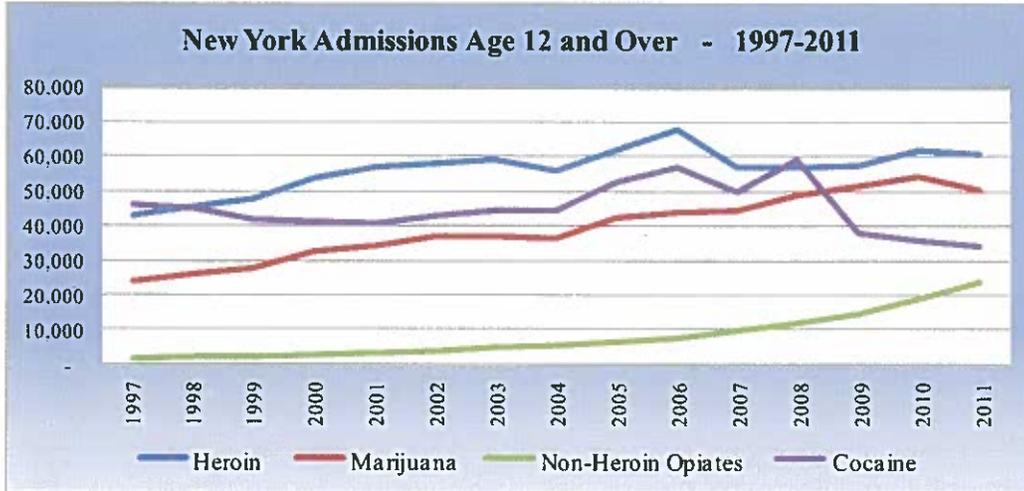
⁶ Darcy Katz, Albany County Department of Probation, in testimony before the Senate Democratic Forum on Heroin Addiction.

⁷ Churchill, Chris, and Alysia Santo. "Heroin Extends Grip to Suburbs." Times Union. September 23, 2013. Accessed March 17, 2014. Available at <http://www.timesunion.com/local/article/Heroin-extends-grip-to-suburbs-832685.php>.

⁸ Data from the Treatment Episode Data Set (TEDS), cited by the White House Office of National Drug Control Policy. Available at http://www.whitehouse.gov/sites/default/files/docs/state_profile_-_new_york_0.pdf

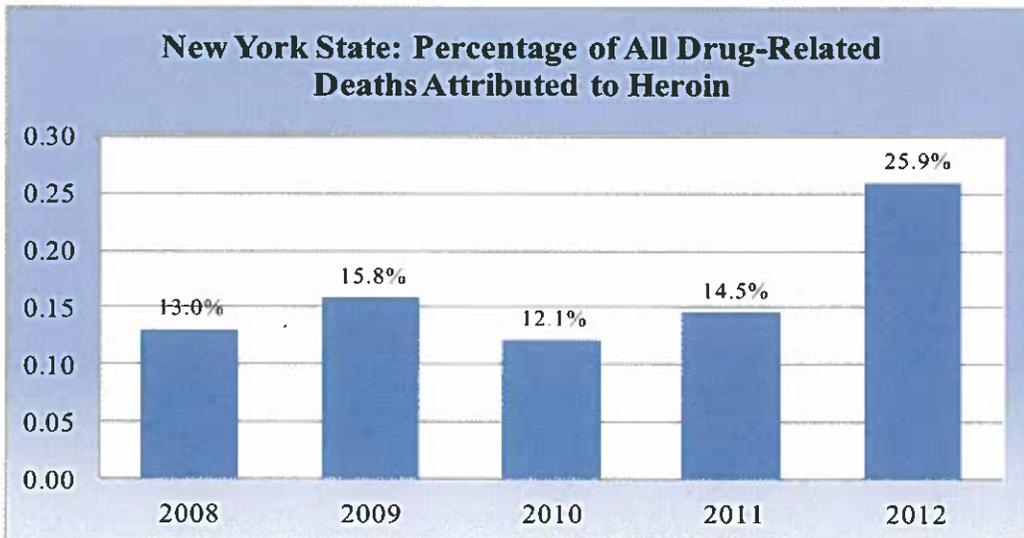
cocaine as the primary drug since 2008, as well as the climb in the use of other opiates – largely prescription drugs, from early in the last decade. The data does not reflect the most recent spike in heroin use.⁹

Figure 1



Heroin overdose is also rising alarmingly fast as a cause of death in New York. In 2012, there were 1,848 deaths from drug overdose throughout the State, an annual increase of 197 (11.9%) from 2008. Deaths specifically from heroin overdose, however, increased from 215 to 478 (122%) for the same time period. Consequently, the percentage of overdose deaths attributable to heroin has doubled from 13% to 26% (Figure 2).¹⁰

Figure 2



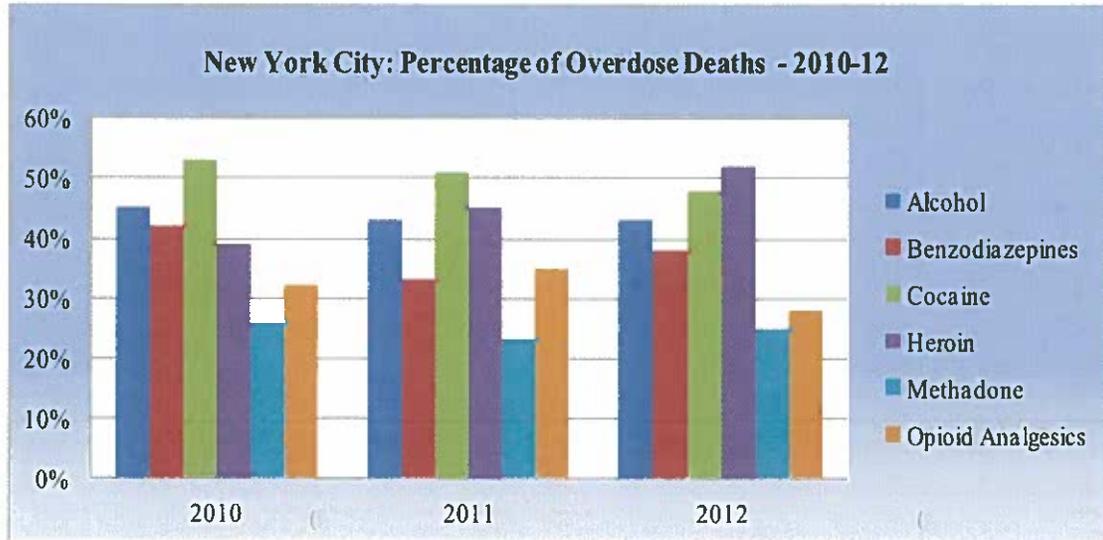
⁹ Data Source: <http://www.samhsa.gov/data/DASIS.aspx#teds>

¹⁰ Data from New York State Department of Health.

In addition, heroin seizures in New York State are up 67% over the last four years, and last year constituted nearly 20% of the federal Drug Enforcement Agency's (DEA) nationwide seizures.¹¹

The abundance of the drug is having a devastating impact throughout the State. In New York City, heroin-related overdose deaths increased 84% between 2010 and 2012 after years of decline in the last decade.¹² The rate of unintentional drug poisoning deaths in general increased from 541 to 730 (35%) during the same period.¹³ Nearly all (97%) of those deaths involved more than one substance, with heroin among the most commonly identified (Figure 3).¹⁴

Figure 3



On Staten Island, heroin overdose deaths have more than doubled between 2010 and 2012, and the per capita death rate is higher than in any other New York City borough.¹⁵

As startling as the latest numbers are for New York City, those for the rest of the state are even more troubling because they clearly indicate the migration of heroin addiction out of urban centers into suburban and rural communities. On Long Island, the drug was responsible for 121 deaths in Nassau and Suffolk in 2012 and at least 120 in 2013 (the two highest totals ever recorded),¹⁶ and heroin arrests by the DEA Long Island division increased 163% in the last year.¹⁷

¹¹ Goodman, J. D. "Hoffman's Heroin Points to Surge in Grim Trade." Seizures totaled 144 kilograms of heroin, valued at roughly \$43 million. *New York Times*. 2/3/2014.

¹² New York City Department of Health and Mental Hygiene. Available at <http://www.nyc.gov/html/doh/html/pr2014/pr003-14.shtml>.

¹³ NYC Department of Health, available at <http://www.nyc.gov/html/doh/downloads/pdf/epi/datatable33.pdf>

¹⁴ New York City Department of Health and Mental Hygiene. EPI Data Brief.

¹⁵ Annese, J. "Trying to Cope With an Addict in the House." *Staten Island Advance* (NY) - Sunday, February 23, 2014

¹⁶ Deutsch, K. "Heroin Becomes an Increasing Problem on LI." The Nassau County Medical Examiner's Office said their preliminary 2013 heroin overdose totals could rise by as much as 10 percent when results are complete on remaining cases. Suffolk officials did not specify the number of outstanding investigations from last year that may yet be classified as heroin deaths. *Newsday*. 1/25/2014.

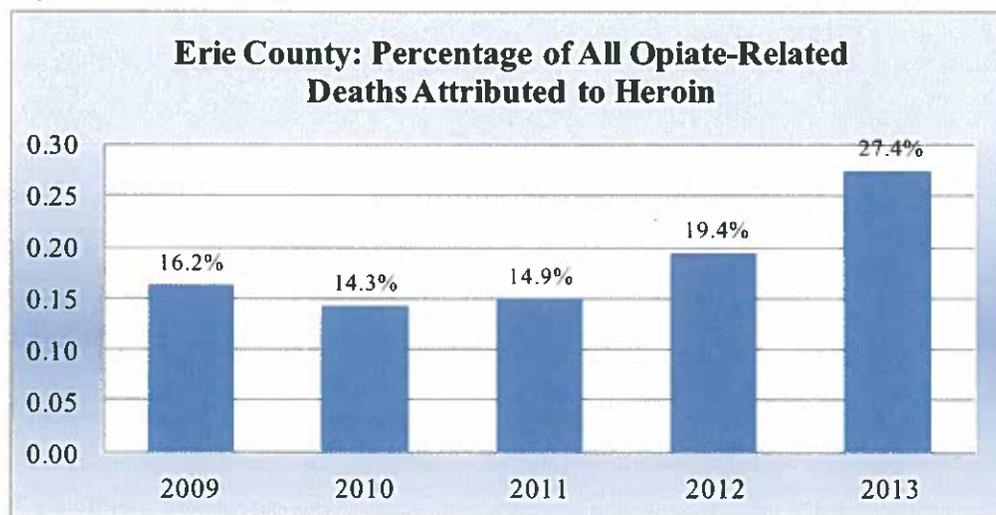
¹⁷ <http://www.nbcnewyork.com/news/local/Heroin-Addiction-Growing-New-York-United-States-Philip-Seymour-Hoffman-Death-243589571.html>

In Central New York, the same alarming trend is evident. Onondaga County experienced only two heroin-related deaths in 2010; by November of 2013, the number had risen to 24.¹⁸ In that same time, Oneida County has seen seven heroin-related deaths for 2013, and the Upstate New York Poison Center received 193 heroin-related calls, compared to only 55 for the entire year in 2010.¹⁹

In Jefferson County alone, there were 16 overdoses resulting in death in 2012, and 14 in 2013, according to the Jefferson County medical examiner's office,²⁰ and the County's Director of Emergency Medical Services reported that through October of that year, the county had 170 overdose cases.²¹ Heroin-related cases comprised about 27% of the Metro-Jefferson Drug Task Force caseload, up from 23% in 2012 and more than double the 12% level of 2009.²²

In Erie County, statistics from the county medical examiners' office show that in 2009, 12 individuals died from heroin overdoses in the county, a number that burgeoned to at least 29 in 2013. With regard to all opioid deaths including heroin, the same time period saw an increase from 74 deaths in 2009 to 106 in 2013, with 114 fatal overdoses in 2011. The percentage of those deaths related to heroin increased from 16% to 27% during the same period (Figure 4).²³

Figure 4



Monroe and surrounding counties have seen similar increases. The Monroe County Medical Examiner's Office reported that heroin killed 65 people in the region in 2013, compared to 29

¹⁸ Smith, A. "Heroin Use, Overdose and Deaths Increase." The story reports the number of heroin-related deaths covered in the *Syracuse Post-Standard* in 2013. <http://whatsupatupstate.wordpress.com/2014/02/25/heroin-use-overdose-and-deaths-increase/>.

¹⁹ Roth, A.N. "Heroin high: Region sees use on rise - Addiction, Crime, Death Skyrocketing." *The Utica Observer-Dispatch*. 11/24/2013.

²⁰ Madden, R. "Agency Offers Narcan To Community." *Ogdensburg Advance-News*. 3/23/2014.

²¹ Block, G. "Forum Addresses Painkiller Abuse Rising Percentage: Addiction Experts See More Patients Using Opioids, Heroin." *Watertown Daily Times*. 11/21/2012.

²² Flatley, D. "Aftermath of An Overdose: Heroin Use In North Country." *Ogdensburg Advance-News* 9/22/2013.

²³ Regan, M. "Erie County Sees Heroin Overdose Surge." *Tonawanda News*. 2/7/2014. The 2013 number is tentative as of this writing. The statistics are still being tabulated.

the previous year, and only 11 in all of 2011. About 25% of the victims were 24 years and younger, and nearly two thirds were under 35 years of age.²⁴ Heroin seizures increased dramatically during the same period, according to the Monroe County Crime Laboratory, which analyzes police evidence in criminal drug cases. Last year, the lab analyzed 1,877 decks,²⁵ compared with 227 in 2011 – an increase of over 700%.²⁶

In Cayuga County, the Finger Lakes Drug Task Force witnessed heroin use emerge from near non-existence in 2010 to nine cases in 2011, then to 31 cases in 2012.²⁷ Broome County saw its number of drug-related deaths rise from 13 in 2012 to at least 31 in 2013.²⁸ By mid-February of this year, there had already been 10,²⁹ and shocked officials at SUNY's Broome Community College are planning drug awareness programs in the wake of the overdose-related death of 49-year-old professor Wesley Warren.³⁰

Chenango County has seen an indisputable spike in heroin related arrests, investigations, and convictions in the past five years. The experience of the Norwich Police Department is not atypical; in 2011, the Department made a total of two arrests involving criminal possession of a hypodermic instrument charges, a class A misdemeanor; that statistic spiked to 21 arrests in 2012.³¹ In Delaware County, the Sheriff's Department has even seen people sell their prescription drugs in order to get money to buy heroin, and inmates picking up roadside trash often find discarded hypodermic syringes possibly tossed out of vehicles by drug users. The Department is forming a task force to address the issue because law enforcement on its own cannot stem the tide.³²

In the lower Hudson Valley last year, the U.S. Attorney for the Southern District announced the arrest of 14 defendants and the unsealing of an indictment charging a conspiracy to distribute kilogram quantities of heroin in and around Middletown, Orange County.³³ And Rockland County has seen well over a dozen overdose deaths in the past four years, according the Director of the Rockland County Narcotics Task Force.³⁴

The far reaches of the North Country are also not immune. In December, authorities in Clinton County indicted 60 people on drug charges in the largest drug sweep in the region's history.

²⁴ Andrietta, D. "Regional Heroin Deaths Surge." Counties reporting heroin-related deaths include Monroe, Livingston, Chemung, Ontario, Orleans, Steuben and Wyoming. *Rochester Democrat and Chronicle*. 2/5/2014. Available at <http://www.democratandchronicle.com/story/news/local/2014/02/04/regional-heroin-deaths-surge/5209465/>.

²⁵ A "deck" - also known as a "bag" - of heroin is 1 to 15 grams of the drug.

²⁶ Andrietta, D. "Heroin Reaching Into the Suburbs." *Rochester Democrat and Chronicle*. 2/9/2014. Available at <http://www.democratandchronicle.com/story/news/local/2014/02/09/heroin-reaching-into-suburbs/5318659/>

²⁷ House, S. "We Have an Epidemic!: Cayuga County Not Immune to Escalation of Heroin Abuse." *The Citizen*. 2/16/2014. Available at http://auburnpub.com/news/local/we-have-an-epidemic-cayuga-county-not-immune-to-escalation/article_6977f1f0-17ca-58c5-a042-27b3df9af991.html.

²⁸ Martin, M. "Heroin Creeps into the Southern Tier." *WSKG*. Available at http://www.wskg.org/wskg_news/heroin-problem-creeps-southern-tier.

²⁹ Green, A. "Broome County fights heroin epidemic through medicine." *TWC News*. Available at http://elmira-corning.twcnews.com/content/news/southern_tier/716813/broome-county-fights-heroin-epidemic-through-medicine/.

³⁰ Associated Press. "N.Y. College Professor Dies After Snorting Heroin." *Olean Times Herald*. 2/20/2014. Available at http://www.oleantimesherald.com/news/here_and_now/article_211c5236-9a4c-11e3-9fef-001a4bcf887a.html.

³¹ Golden, B. "Heroin : An epidemic in Chenango?" *The Norwich Evening Sun*, 3/15/2013

³² Mahoney, J. "Police Say Heroin is a Local Crisis." *The Daily Star*. 12/17/2013.

³³ <http://www.fbi.gov/newyork/press-releases/2013/fourteen-charged-with-kilogram-quantity-heroin-trafficking-in-city-of-middletown>

³⁴ "Heroin Epidemic Plagues N.Y. Suburbs." *The News Star*. Available at <http://www.thenewsstar.com/usatoday/article/5096813>.

State Police Troop B, which covers Clinton, Essex, Franklin, St. Lawrence and the northern half of Hamilton Counties, has seen 27 overdose deaths since 2012.³⁵

In the Capital District, the picture is just as telling. The upward trend in heroin addiction was recognized nearly five years ago by treatment professionals at the St. Peter's Addiction Recovery Center which, in 2009, saw a 74.4% increase in individuals seeking such heroin addiction treatment since 2007.³⁶ Statistics at Hospitality House, one of the Capital Region's primary residential treatment facilities, show that opiates, heroin specifically, as the drug of choice, have risen from 17 percent in 2008 to 50% in 2013.³⁷ State Police and Rensselaer County sheriffs have set up a task force to handle the growing problem in the suburban Town of Sand Lake.³⁸

Tragic cases, in which promising young lives have been cut short, leaving shocked and devastated loved ones in their wake, have become so pervasive throughout the state that many communities have begun holding public meetings to drag the situation out into the open for discussion. As early as November of 2012, medical providers and first responders in Watertown gathered at a community work group meeting about prescription drug abuse and the increasing number of patients they see facing problems with painkillers and other opioids.³⁹ After the deaths of two young people during the summer of 2013, residents of the Rensselaer County town of Averill Park held a community meeting at the local firehouse to kick off a public campaign to address opioid addiction.⁴⁰ In November, the Schoharie County Chemical Dependency Clinic gathered experts to a forum to explore how heroin impacts the fabric of that rural county.⁴¹ In December, Staten Island's Tackling Youth Substance Abuse (TYSA) coalition and the Long Island-based Families in Support of Treatment (FIST) hosted a forum at the Jewish Community Center of Staten Island in Sea View.⁴²

II. The Senate Democratic Conference Forum

In response to the growing number of incidents involving heroin addiction, overdose and death throughout New York, State Senator Neil Breslin and other members of the New York State Senate Democratic Conference held a Public Forum on Effects of the Heroin and Opioid Epidemic on New York's Communities on December 17 in Albany.⁴³ The central purpose of the forum was to raise public awareness, and to bring together the spectrum of public health,

³⁵ Krieg, F. "60 Indicted in North Country's Biggest Drug Bust." *Press Republican*. 12/19/2013. Available at http://www.pressrepublican.com/0100_news/x1221254743/More-than-60-charged-in-North-Countrys-biggest-drug-bust.

³⁶ Canfield, D. "Heroin use has sharply increased in Capital District." *Troy Record*. 11/24/2009. Available at <http://www.troyrecord.com/general-news/20091124/heroin-use-has-sharply-increased-in-capital-district>.

³⁷ Young Do, MSW, CASAC and Individual Counselor at Hospitality House. Testimony before the Senate Democratic Forum on Heroin Addiction.

³⁸ Austin J. "Suburbia's Deadly Secret: When a Great Place to Raise Children is also an Easy Place to Score Drugs." *Metroland*. Available at <http://metroland.net/2013/08/21/suburbia%E2%80%99s-deadly-secret/>

³⁹ ³⁹ Block, G. "Forum Addresses Painkiller Abuse Rising Percentage: Addiction Experts See More Patients Using Opioids, Heroin." *Watertown Daily Times*. 11/21/2012.

⁴⁰ Levy, D. "Bringing a Drug Epidemic Into Public View." <http://wnyt.com/article/stories/s3101584.shtml>.

⁴¹ Munger, E. "Forum to Explore Heroin Use, Prescription Drug Abuse." *The Daily Gazette*. 11/12/2013.

⁴² "Prescription-drug addiction to be focus of forum at JCC." *Staten Island Advance*. 12/4/2013.

⁴³ Senator Breslin is the Ranking Member of the Senate Insurance Committee. He was joined by Senator Velmanette Montgomery, Ranking Member of the Children and Families Committee, Senator Kevin Parker, Ranking Member of the Committee on Alcohol and Substance Abuse, and Senator Cecilia Tkaczyk, Ranking Member of the Committee on Mental Health and Developmental Disabilities.

criminal justice entities, and professionals who deal with the crisis on a daily basis, to identify facets of heroin addiction that can be addressed through public policy. What has emerged from forum testimony, the steady drumbeat of stories that continue to shock and sadden all New Yorkers, and the responses of policymakers in other states seeking to address the issue, is a series of legislative initiatives sponsored by members of the Democratic Conference. These are designed to address the major findings of the forum.

Findings and Legislation

A. Heroin Addiction is a Public Health Crisis

"It's a disease, an illness, a progressive and insidious disease..."⁴⁴

First and foremost among those findings is that heroin addiction is primarily a crisis of public health, rather than criminal justice, and must be addressed as such. Part of the shift in attitudes is due, no doubt, to our collective experience in New York of the failed policies of the past, whereby even relatively low-level drug offenders faced severe punishment under the draconian Rockefeller Drug Laws. Just as significant, are the personal experiences of those in law enforcement who are witnessing this tragedy unfold first-hand. In his testimony before the panel, Albany County Sheriff Craig Apple related to the Senate panel that, as a young cop, he thought that locking up addicts was the easiest way to go. As he gained experience, however, he realized that locking everyone up only temporarily hides the problem, but it is no solution. The problem is "cyclical," something needs to be done to stop the cycle, and treatment is the best option.⁴⁵ Colonie Police Chief Steven Heider echoed his colleague, explaining that punishing people for four to six years does not help them, and that money needs to be poured into treatment.

"In the Sheriff's Office we see it in the urban center, we see it in the suburban center, we see it in the rural setting. It's everywhere. Heroin is not discriminating; it doesn't care about your residency, it doesn't care about your financial status. We're seeing more heroin arrests in rural areas than I've seen in 27 years..."

***Albany County Sheriff Craig Apple
Testimony before the Democratic Conference Forum***

Francisco Calderone, Bureau Chief for Street Crimes at the Albany County District Attorney's Office, agrees. Every day, his office sees at least one or two cases involving heroin, and is continually trying to come up with Alternative to Incarceration (ATI) and diversion programs. "We've done that," Calderone says, "we know we'll have to do more." Recovering addict Chris Amato reinforced that fact, saying that he had spent four months in jail for possession, and it did not change his way of thinking - and as soon as he got out, he was ready to use again.⁴⁶

This recognition by law enforcement prosecutors that incarceration is not the answer was instrumental in implementing drug law reforms of the last decade. These reforms are directly

⁴⁴ Father Peter Young, of Peter Young Housing, Industries and Treatment (PYHIT). Testimony before the Senate Democratic Forum on Heroin Addiction.

⁴⁵ Albany County Sheriff Craig Apple. Testimony before the Senate Democratic Forum on Heroin Addiction.

⁴⁶ Chris Amato, a recovering addict who has been sober for three years. Testimony before the Senate Democratic Public Forum on Heroin Addiction.

linked to a decline in the prison population. Indeed, in his testimony before the Joint Legislative Fiscal Committee on the 2014-15 Executive Budget, Department of Corrections and Community Supervision (DOCCS) Commissioner Anthony Annucci made the link between drug law reform and prison population decline abundantly clear. "...no metric is more compelling than the changing demographics on the number of incarcerated drug offenders. At the end of 1996, there were more than 24,000 drug offenders in state prison. At the end of 2013, there were less than 6,700." In response, to the decline, Annucci testified that last July, he had set in motion the one-year notification procedures in the Correction Law to close four correctional facilities effective July 26 of this year. The total savings for taxpayers annually will be approximately \$30 million.⁴⁷

The nexus between the reduction in the prison population and the pressing need for more rehabilitation facilities is self-evident. The Senate Democratic Conference has introduced legislation (S.7104 - Tkaczyk) that would increase the availability of beds in treatment facilities by redirecting the savings from prison closures to desperately needed services for those who suffer from opioid dependency and their families. The Community Opioid Rehabilitation Program Services Act will create an Opioid Dependency Services Fund under the joint custody of the State Comptroller and the Commissioner of Taxation and Finance. The Fund will consist of the annual savings from the downsizing of facilities under the DOCCS, an amount which will never be less than the \$30 million in savings generated from correctional facility closures, to be administered for rehabilitation services by the Office of Alcohol and Substance Abuse Services.

B. Better Messaging and Education

*"Suburban people have a habit of closing their eyes."*⁴⁸

In an annual drug survey conducted by the Rensselaer County District Attorney's Office, 52% of students in grades 6 through 12 at the suburban Averill Park school district stated that they didn't view drugs as risky.⁴⁹ While this is clearly a limited sample, the startling revelation of nonchalance among young people reaches to the very heart of the heroin crisis. Witnesses appearing before the forum universally pressed for greater outreach regarding the dangers of heroin use. That messaging, however, must be designed to reach multiple, yet not mutually exclusive, target audiences.

Potential Users: The first of those is the audience of potential users, to whom messages of prevention and post-rehabilitation dangers must be directed. Prior to addiction, potential users are often unaware of the strength and addictive power of today's heroin. And when the high from prescriptions drugs is no longer good enough, or the former get too expensive, they turn to the latter.⁵⁰ Several witnesses testified to the attractive price and unexpected addictive power of the

⁴⁷ Anthony Annucci, testifying before the Joint Legislative Budget Hear on Public Protection. 2/5/2014. Available at <http://assembly.state.ny.us/write/upload/files/testimony/20140205/20140205-PublicProtection-Annucci.pdf>.

⁴⁸ Steven Heider, Chief of the Colonie Police Department, in testimony before the Senate Democratic Forum on Heroin Addiction.

⁴⁹ Austin J. "Suburbia's Deadly Secret: When a Great Place to Raise Children is also an Easy Place to Score Drugs." *Metroland*. Available at <http://metroland.net/2013/08/21/suburbia%E2%80%99s-deadly-secret/>

⁵⁰ Jennifer O'Neil-Haggerty, Student Assistance Counselor at Averill Park High School. Quoted in *Metroland*. 8/21/2013. Available at <http://metroland.net/2013/08/21/suburbia%E2%80%99s-deadly-secret/>

drug. As recovering addict Chris Amato recounted, he grew up in suburbia, started with prescription medications, and eventually moved to heroin. "...it ruined my life... Growing up, I said 'I'm never gonna do this, I'm never gonna be this person. And that's exactly what I turned into.'"⁵¹

Patty Farrell, who lost her daughter Laree to a heroin overdose just five days before her 19th birthday in June of 2013, recounted how quickly her daughter progressed from prescription drugs to heroin. After trying it once, she was addicted. Farrell recalled for the panel how her daughter was pulled into addiction. "...She was beautiful, she was brilliant... she used it one time and she was utterly addicted. This drug is so strong and it pulls these kids in..." She urges parents to pay attention to warning signs like, avoidance, weight loss, and friends who are former users.⁵²

Sister Phyllis Herbert, co-founder and director of Honor Court, a Troy-based alternative to incarceration program, noted that many young people have been using prescription pills for four or five years, and try everything they can to stay with them. But once they try heroin, "...they love it, and heroin is cheaper..."⁵³ Dr. Michael Dailey, an Emergency Room physician at Albany Medical Center and the Medical Director of a Naloxone pilot program, concurred, saying "...the economics of heroin seem pretty simple... [heroin] has dropped in cost, the cost of pills has gone up in cost and the access to pills has gone down."⁵⁴

Family and Friends: The second target audience is the family and friends of users, many of whom either fail, or refuse, to see the addiction of their loved one. Colonic Police Chief Steven Heider was most succinct to the Senate panel when he said "Suburban people have a habit of closing their eyes. The obituaries in the paper aren't doing it, and we need the public to get involved." Albany County Probation Officer Darcey Katz concurs, saying that both addicts and their families are embarrassed, and do not want people outside the family to know about their addiction. But families who try to quietly fix the problem on their own "...absolutely cannot conquer this by themselves."

"...when a user is used to taking five packets of heroin a day, has been clean for 30 days then tries to take another five packets, their tolerance is so low it kills them."

Patty Farrell, who lost her daughter to a heroin overdose in 2013

The stories told by both Brenda Auerbach and Patty Farrell further illustrate that addicts themselves are often too embarrassed or ashamed to get help. Auerbach's son admitted his addiction and was worried about it, but he didn't want treatment, insisting he could "handle it himself." Laree Farrell-Lincoln "...didn't want anyone to know. None of her friends knew about it. She came to me because she knew she needed help, but she begged me not to tell anybody."⁵⁵

Recovering Addicts: Because heroin use produces a tolerance, users not only need more of the drug to experience a "high," and higher amounts to overdose. Abstaining for only a few weeks,

⁵¹ Chris Amato. Testimony before the Senate Democratic Public Forum on Heroin Addiction.

⁵² Patty Farrell. Testimony before the Senate Democratic Forum on Heroin Addiction.

⁵³ Sister Phyllis Herbert, cofounder and director of Honor Court, in testimony before the Senate Democratic Forum on Heroin Addiction.

⁵⁴ Dr. Michael Dailey, in testimony before the Senate Democratic Forum on Heroin Addiction.

⁵⁵ Patty Farrell. Testimony before the Senate Democratic Forum on Heroin Addiction.

as many rehab programs require, lowers this tolerance, so if an addict uses what may have been a normal dose prior to rehab, the results are often fatal. This, evidence suggests, is what happened in the high-profile deaths of Corey Monteith⁵⁶ and Philip Seymour Hoffman.⁵⁷ Patty Farrell admitted that this is what she believes happened to Laree. "...if my daughter was using five packets of heroin before she went into rehab for a month, she came out and used that same five packets and her tolerance level was so low... it could kill her, which is ultimately what I believe did happen."

Emergency Situations: Outreach and education cannot be restricted simply to the dangers of the drug; it also has to include how to recognize symptoms of overdose and how to react. As Dr. Dailey told members of the Senate Democratic Forum, "...teenagers travel in packs, so [Naloxone] needs to be more accessible and young people need to know how to save each other (see description of Naloxone in Section D- Antidote Availability)."

While emergency medical help (including the administration of Naloxone) can mean the difference between life and death, victims or their companions often don't call for help because they fear they will be arrested on drug charges. Friends and family of users should know that they will not be prosecuted for possession or being under the influence of an illicit narcotic if they are responding to a life-threatening situation that a friend or family member may be facing. New York State law provides that a person who, acting in good faith, "...seeks health care for someone who is experiencing a drug or alcohol overdose or other life threatening medical emergency shall not be charged or prosecuted for a controlled substance offense under Article 220 (Controlled Substance Offenses)..."⁵⁸

In both the recent and not-so-recent past, graphic Public Service Announcements (PSAs) have been among the most successful means of educating the public about the risks of certain behaviors. For the baby boomer generation, the vision of an egg dropping into a sizzling frying pan ("This is your brain; this is your brain on drugs.") is indelibly imprinted in the collective memory. More recently in Montana, where crystal meth became an insidious problem among teens and young adults in the later part of the last decade, the graphic creations of the Montana Meth Project conger a similar reaction.⁵⁹

The Senate Democratic Conference has responded to the need for greater outreach and public education by introducing legislation (S.7101 - Parker) that would require the Office of Alcohol and Substance Abuse Services (OASAS) to create a multi-faceted public awareness and educational program - in the form of PSAs and interactive social media - with regard to the dangers of heroin use and the proper steps to take in assisting friends and loved ones in life-threatening, addiction-related situations. Subject matter for these educational spots must include, but not be limited to: the dangers of heroin addiction after only one use; raising the profile of the state's Good Samaritan Law with regard to seeking emergency assistance for a person experiencing a drug overdose; the demographics (the victims and their families and friends) of the current heroin crisis; raising awareness of HOPEline, the addiction hotline sponsored by

⁵⁶ <http://healthland.time.com/2013/07/17/viewpoint-how-the-drug-treatment-system-failed-cory-monteith/>

⁵⁷ <http://www.theguardian.com/society/2014/feb/04/philip-seymour-hoffman-curing-addiction-david-nutt>

⁵⁸ New York State Penal Law, Section 220.78.

⁵⁹ Montana Meth Project PSAs can be viewed at <http://montana.methproject.org/>

OASAS,⁶⁰ and the availability and effectiveness of “opioid antagonists” such as Naloxone. The legislation further requires that the Commissioner examine all possible methodologies for the most effective way to reach the widest possible audience with the program, as well those groups who are most at risk for heroin addiction, including the agency website and social media.

C. Insurance Coverage

“When there’s a bed available, then it’s a matter of insurance...”⁶¹

As the resurgence of heroin addiction expands, addicts and their loved ones who are seeking to help them face both a shortage of services and constraints placed on care by insurance companies. Generally, before insurance companies agree to cover inpatient services, they require evidence that the patient has tried one or more outpatient programs, has little or no outside support network, and has a health condition that makes treatment a medical necessity.⁶² Sister Phyllis recounted her personal experience with a 17-year-old client who had health insurance through her parents’ policy. She stated the carrier would not cover inpatient treatment because she “...had not failed [as] an outpatient... that would be the criteria before you’re allowed to proceed to inpatient.”⁶³

Probation Officer Darcey Katz recounted similar experiences. Typically, the degree of residential treatment needed is 9 to 12 months, she explained. “A lot of these people who are coming in with heroin addiction have private insurance,” Katz told the panel. But these companies “don’t want to cover detox, they don’t want to cover rehab, they’re covering minimal outpatient treatment. Outpatient treatment is not what these kids need... the only level of treatment that helps is long-term residential treatment, and it’s next to impossible to get an insurance company to agree to that.” On the other hand, Medicaid covers inpatient treatment, and it’s unfortunately not an uncommon practice for parents to “emancipate” their children from their private insurance policies so they qualify for Medicaid coverage.⁶⁴ “When there are beds available,” Katz explained, “then it becomes a matter of insurance... sometimes we encourage people to move out of their parents’ house.”

“Even when she overdosed, was resuscitated by her father before a hospital stay in intensive care, their policy would still not authorize coverage for rehabilitation...”

*Sister Phyllis Herbert of Honor Court
Describing the denial of desperately needed
insurance coverage to a policy-holder*

What’s more, demand for treatment is quickly outstripping supply, leaving addicts whose internal clocks revolve around their next fix to wait weeks in some cases for care ranging from scheduling counseling sessions to getting medicine to combat withdrawal.⁶⁵

⁶⁰ HOPEline offers help and hope 24 hours a day, 365 days a year for alcoholism, drug abuse and problem gambling. All calls to toll-free HOPEline (1-877-846-7369) are anonymous and confidential.

⁶¹ Darcy Katz, Albany County Probation Department.

⁶² http://www.courierpostonline.com/article/20140217/NEWS05/140216002/Heroin-addicts-who-want-help-face-insurance-denials?gcheck=1&nlick_check=1

⁶³ Sister Phyllis Herbert. Testimony before the Senate Democratic Forum on Heroin Addiction.

⁶⁴ “Threading the Needle.” *Albany Times Union*, 3/30/2014.

⁶⁵ http://www.courierpostonline.com/article/20140217/NEWS05/140216002/Heroin-addicts-who-want-help-face-insurance-denials?gcheck=1&nlick_check=1

The Senate Democratic Conference has introduced legislation (S.7103 - Gipson) that will ensure that private sector insurance carriers in New York act responsibly in their obligation to provide adequate coverage for addiction treatment by expanding the coverage time frame in for inpatient rehabilitation of opioid users. Under its provisions, private carriers must cover no less than 60 days of treatment, after which, coverage can only be terminated when the admitting or attending physician certifies that there is no further treatment necessary and the patient should be discharged. Up to an additional 30 days of treatment must be covered - for a total of 90 days - if the admitting or attending physician deems it necessary. In addition, the bill provides for a smooth transition from private coverage to Medicaid after 90 days, and ensures that any additional cost will be borne by the State, rather than counties.

Even without admittance for an extended period in an inpatient facility, the cost of addiction treatment medications in outpatient settings can be expensive over the long term. Such synthetic opioids as Vivitrol (naltrexone)⁶⁶ and buprenorphine⁶⁷ mitigate the effects of narcotic withdrawal syndrome while blocking the euphoric high that an addict to heroin or other narcotics experiences. When used properly, patients can reduce, or stop altogether, their use of these substances. The Senate Democratic Conference has introduced legislation (S.4189 - Kennedy) that would require that every policy that provides medical, major medical or similar comprehensive-type coverage, and coverage for prescription drugs, also covers opioid-addiction treatment medications. Such coverage may be subject to co-pays, coinsurance or deductibles, provided these are equitable to comparable prescription drugs covered under the policy.

D. Antidote Availability

"[Naloxone] would have been an option, instead of me waiting frantically for the ambulance to get there..."⁶⁸

Naloxone hydrochloride, commonly known as Naloxone, is a prescription drug that blocks the receptors in the brain affected by opioid drugs, like heroin and prescription opiates, effectively reversing the respiratory distress that can result in death.⁶⁹ Naloxone's effects last 30 minutes, and overdose patients who receive it must be taken immediately to a medical facility before the drug wears off. Its use in reversing the effects of opioid overdose has become more common across the nation since the mid-1990s, when community-

"We've had well over 200 reversals with no harm to any of the people who got reversed, and no harm to any providers..."

Dr. Michael Dailey, Medical Director for Naloxone Training Program

⁶⁶ Vivitrol (naltrexone) is an opioid antagonist used as the hydrochloride salt in treatment of opioid or alcohol abuse. It blocks the effects of narcotic medicines and alcohol, and is also used to prevent narcotic addiction relapse. Definition available at <http://www.drugs.com/vivitrol.html>.

⁶⁷ Buprenorphine is a semisynthetic narcotic analgesic that is derived from thebaine and is administered in the form of its hydrochloride intravenously or intramuscularly to treat moderate to severe pain and sublingually to treat opioid dependence. Definition available at <http://www.merriam-webster.com/medical/buprenorphine>.

⁶⁸ Brenda Auerbach, testifying on the circumstances of her son Jeremiah's death of a heroin overdose before the Senate Democratic Forum on Heroin Addiction

⁶⁹ Naloxone Hydrochloride, commonly referred to as simply "Naloxone," was developed by Sankyo in the 1960s. It is currently marketed under various trademarks including Narcan, Nalone, and Narcanti.

based programs began offering opioid overdose prevention services to persons who use drugs, their families and friends, and service providers.⁷⁰ According to a 2010 survey by the Harm Reduction Coalition of 48 Naloxone programs across the country, 53,032 individuals had been trained in the administration of Naloxone from 1996 to 2010. Survey respondents reported 10,071 overdose reversals in 15 states and the District of Columbia during the time period.⁷¹ In New York, a 2008 analysis of Injection Drug Users (IDUs) found that of the 82 overdose cases in which Naloxone was administered, 68 (83.0%) victims survived, and the outcome of 14 (17.1%) overdoses was unknown.⁷² In addition to saving lives, Naloxone distribution is cost-effective, in that its distribution results in fewer overdoses or emergency medical service activations.⁷³

The effectiveness of Naloxone was not lost on family members who had lost loved ones testifying before the federal Food and Drug Administration (FDA) last spring, pushing the agency to give the drug “over the counter” (OTC) status.⁷⁴ Nor was it lost on most of those testifying before the Senate panel. Peter Berry, Deputy Chief of the Colonie EMS Department, stated that Naloxone kits were inexpensive, ranging from \$16 to \$24. The whole process is simple, Berry stated, but the lifesaving drug needs to be more accessible. “We need to get Naloxone out there. This is a medication that can save lives [when] put into the right hands.”⁷⁵ Patty Farrell also lamented that if Naloxone had been available to her, she may have been able to save her daughter.

Training in the administration of Naloxone works much like training for CPR, whereby each trainee can subsequently train others, resulting in a multiplier effect. Dr. Dailey recounted that the pilot program he runs has trained about 2,000 EMTs throughout the state, with help from a brief video produced by the AIDS Institute with assistance from the NYS Department of Health. “That video is used by Rochester Fire, Suffolk County Police, Suffolk County EMS, and most of the EMS agencies in Rensselaer County, and we’ve had well over 200 reversals with no harm to any of the people who got reversed, and no harm to any providers.”⁷⁶

Currently, the Division of Criminal Justice Services (DCJS) is working with law enforcement to provide funding for Naloxone for all law enforcement agencies that are interested. Senate Democrats have responded to this near-universal call for better distribution of Naloxone with a bill (S.7102 - Montgomery) that would provide funding for all first responders - from fire departments to emergency medical agencies - to carry the drug. It also ensures that treatment facilities make the drug available to the families of recently discharged patients, when they are most vulnerable to the possibility of a fatal overdose.

⁷⁰ Centers for Disease Control (CDC). *Community-Based Opioid Overdose Prevention Programs Providing Naloxone – United States, 2010*. Available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6106a1.htm#tab>.

⁷¹ Harm Reduction Coalition. *Guide to Developing and Managing Overdose Prevention and Take-Home Naloxone Projects*. Available at <http://harmreduction.org/wp-content/uploads/2012/11/od-manual-final-links.pdf>.

⁷² Piper, T.M. et al. “Evaluation of a Naloxone distribution and administration program in New York City.” *Substance Abuse and Misuse*. 2008;43(7):858-70. Abstract available from the National Library of Medicine of the National Institutes of Health, <http://www.ncbi.nlm.nih.gov/pubmed/18570021>

⁷³ Coffin, P.O. and Sullivan, S.D. “Cost-effectiveness of distributing Naloxone to heroin users for lay overdose reversal.” *Annals of Internal Medicine*. 2013 Jan 1;158(1):1-30.

⁷⁴ Summary available at <http://www.fda.gov/downloads/Drugs/NewsEvents/UCM318909.pdf>

⁷⁵ Peter Berry, Deputy Chief of Colonie EMS, in testimony before the Senate Democratic Forum on Heroin Addiction.

⁷⁶ Dr. Michael Dailey, in testimony before the Democratic Forum on Heroin Addiction.

E. Stiffer Penalty for Sale Resulting in Death

“Somebody should be held accountable for more than just an E felony...”⁷⁷

While witnesses representing advocates, law enforcement, prosecutors, and victims unanimously called for policymakers to treat heroin addiction as primarily a public health issue, there is a criminal justice element that cannot be ignored. For years, overdoses have been treated as accidental deaths. With the rise in heroin-related deaths, prosecutors around the country are beginning to treat the site of an overdose death as a crime scene, and are seeking higher penalties for dealers when the sale of heroin results in a death.⁷⁸

Under federal law, a large-scale distributor of heroin may face anywhere from 10 years to life in prison. But when a user dies from overdosing on a drug obtained illegally, the penalties increase. Under the Controlled Substances Act, distributing heroin that results in death carries a minimum mandatory sentence of 20 years, along with a “substantial fine,” under what is commonly called the “Len Bias Act,” after the promising University of Maryland basketball star who died of an overdose in 1986.⁷⁹

Some states have responded with new, stricter penalties in cases where a causal relationship can be established between the sale of heroin and the death of the victim. Others are taking a look at existing statutes to exact harsher punishment. In New Jersey, prosecutors are using a statute that has been on the books since 1987 to charge a seller with homicide.⁸⁰ In Minnesota, prosecutors are similarly using a 1987 statutory provision that allows them to charge someone who, without intent to cause death, proximately causes the death of another by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a Schedule I or II with third degree murder, with a maximum 25-year sentence and/or a fine of up to \$40,000.⁸¹ In Pennsylvania, an individual who sells a controlled substance that result in a death can be charged with a first degree felony and face up to 40 years in prison.⁸²

Currently in New York, the penalty for selling drugs varies from a class D felony for Criminal Sale of a Controlled Substance in the Fifth Degree, to a class A-I felony for Criminal Sale of a Controlled Substance in the First Degree, depending on the type and weight of the drug involved.⁸³ There is no additional penalty when such sales cause a death; the extent of any additional penalty is the charge of Criminally Negligent Homicide, a class E felony, punishable by up to four years imprisonment.⁸⁴

The Senate Democrats have introduced “Laree’s Law” (S.7100 - Breslin), named for Patty Farrell’s daughter, Laree Farrell-Lincoln, who died of a heroin overdose in June of 2013. Laree

⁷⁷ Patty Farrell, in testimony before the Democratic Forum on Heroin Addiction.

⁷⁸ Zezima, <http://bigstory.ap.org/article/dealers-now-being-charged-drug-overdose-deaths>

⁷⁹ Title 21 §841(b)(1)(C) of the United States Code. The U.S. Supreme Court has recently reversed the conviction of an Iowa man under this federal statute, finding that the jury was not properly instructed on what constitutes “causality.” The Court remanded the case back to lower court to re-try in accordance with its ruling. See *Burrage v. United States*, 133 S.Ct. 2049 (2013). Opinion available at http://www.supremecourt.gov/opinions/13pdf/12-7515_21p3.pdf.

⁸⁰ The New Jersey Code of Criminal Justice. Chapter 35: Section: 2C:35-9: Strict Liability for Drug-Induced Deaths.

⁸¹ Chapter 176 of the Laws of 1987; Minnesota Statute 609.195 Murder in the Third Degree.

⁸² Pennsylvania Consolidated Statutes, Title 18: Crimes and Offenses; Section 2506, Drug Delivery Resulting in Death

⁸³ Sections 220.31, 220.34, 220.39, 220.41, and 220.43 of the New York Penal Law.

⁸⁴ New York Criminal Procedure Law, Section 125.10; New York Penal Law, Section 70.00 (2)(e).

is representative of the hundreds of promising young people whose lives have been tragically cut short by the scourge of heroin addiction. Laree's Law will increase the penalty for the deliberate sale of an opioid that results in death to manslaughter in the first degree, a class B felony, with a sentence of up to 25 years.⁸⁵

III. Conclusion

Heroin addiction has reached crisis levels in New York State. As increasing news coverage, pleas from advocates, and the personal and professional experiences of all participants in the Senate Democratic Forum all attest, bold and substantial public policy initiatives are required to address this scourge that is plaguing our youth. Those initiatives must 1) recognize heroin addiction as a public health issue, 2) educate the most vulnerable sectors of our population on the dangers of heroin use, and enlighten a public that views heroin addiction as the stigma of a bygone era, and 3) establish adequately and responsibly funded, substantive prevention and treatment programs. The Senate Democratic Conference has put forth legislation that addresses all these facets of heroin and opioid addiction.

Several of these legislative initiatives were part of the Conference's recommendations for inclusion in the 2014-15 Budget and, indeed, \$2 million was appropriated for heroin and opioid addiction treatment,⁸⁶ the first time in the State's history that a budget has included funding specifically targeted for such purposes.⁸⁷ Further recognition of the immediacy of the crisis came after the budget was passed, with the pledge by Attorney General Eric Schneiderman's office to equip state and local police with Naloxone through a new Community Overdose Prevention (COP) program, the funding for which will come from joint federal-state criminal and civil forfeiture money.⁸⁸ These initiatives are timely and laudable, and signify the fact that policymakers recognize the immediacy of the crisis – largely through the drumbeat of media attention that has come in recent months. They are also acknowledging that while we continue to pursue “fact-finding,” families are being torn apart and are losing loved ones on an almost daily basis. Now is the time for action.

⁸⁵ New York Penal Law, Section 70.00(2)(b).

⁸⁶ Heroin and opioid prevention and treatment services each received a \$1,000,000 appropriation in the OASAS budget, contained in S.6 353-E/A.8553-E.

⁸⁷ McKibben, M. “Budget Includes \$2 Million to Address Heroin Problem.” *Legislative Gazette*. Available at <http://www.legislativegazette.com/Articles-Top-Stories-c-2014-04-07-87494.113122-Budget-includes-2-million-to-address-heroin-problem.html>.

⁸⁸ Lovett, K. “Eric Schneiderman Announces New Program to Equip Cops With Heroin Antidote to Treat Overdose Victims.” Available at www.nydailynews.com/blogs/dailypolitics/eric-schneiderman-announces-new-program-equip-cops-heroin-antidote-treat-overdose-victims-blog-entry-1.1744229#ixzz2zEoqnN1o.