



OFFICE OF THE DISTRICT ATTORNEY NASSAU COUNTY

**Testimony on Behalf of Nassau County District Attorney Madeline Singas
Before the New York State Joint Senate Task Force on Opioids,
Addiction and Overdose Prevention
October 15, 2019**

Good morning Senators -

Thank you for hosting this public hearing on a crisis that continues to ravage our communities and steal the lives of too many people from every neighborhood, every socio-economic background, every ethnicity and religion. The disease of Opioid addiction does not discriminate. It just destroys.

Nassau County District Attorney, Madeline Singas has been battling the opioid epidemic as a top priority since she took office as the Acting District Attorney in 2015. I am Executive Assistant District Attorney, Maureen McCormick and I thank you on D.A. Singas' behalf for the invitation to discuss this continuing scourge and the practical steps that can be taken to reduce overdoses, reduce deaths, support treatment and recovery and restore people's lives.

D.A. Singas has employed a multi-pronged approach to this crisis in coordination with our partners in County Executive, Laura Curran's administration, the New York State Office of Alcohol and Substance Abuse Services, Nassau County Treatment Providers, Hospitals and Law Enforcement. It is producing results. But there is much more work to be done.

The D.A. has focused on prevention and education by providing the "Not My Child" program free of cost to schools and community groups throughout the county. These efforts are made through her office of Core Services that provides (among other things) school programs on many topics such as Internet Safety, Drunk, Drugged and Reckless Driving, Dating Violence, etc. The message is continued through the outreach of the Community Relations Division that ranges from monthly advisory council meetings, comprised of community members who share common

bonds, to anti-drug and gang programs to re-entry support. And of course the D.A. also co-chairs the Heroin Prevention Task Force which conducts regular meetings with the stakeholders to assess how we are doing and what needs to be changed. Those meetings are directed by Rene Fiechter from my office.

Enforcement is also a necessary prong in this multi-faceted approach. We are working with the Nassau County Police Department to investigate all overdose deaths and set up stings for the dealers who provided the fatal drugs to the overdose victim. By using the victim's phone, new drug deals are arranged and arrests are made, but the arrests are rarely for reckless manslaughter – the conscious disregard of a substantial and unjustifiable risk that death may be caused by providing opioids for ingestion. The charge of manslaughter under the circumstances of an overdose death requires “aggravating factors”. For example, an aggravating factor might be a statement by the dealer to a user to be careful with this product because other users have overdosed. This kind of evidence rarely exists but it does not stop the desperate families of overdose victims from demanding the filing of a homicide charge.

The inability to charge reckless manslaughter dates back 40 years to the decision in People v. Pinckney, 38 AD2d 217 (2d Dept. 1972) aff'd 32 NY2d 749 (1979). The Pinckney court held “Although it is a matter of common knowledge that the use of heroin can result in death, it is also a known fact that an injection of heroin into the body does not generally cause death... There are no provisions contained in the present Penal Law which set forth that the illegal sale of a dangerous drug which results in death to the user thereof constitutes manslaughter or criminally negligent homicide.”

Times and potency have changed. Fentanyl is now a deadly part of the landscape. The National Institute on Drug Abuse (NIDA) indicates that more than 70,000 people died from overdoses nationally in 2017 and more than 3,200 in New York State. The risk of death has grown exponentially. The statute must be changed to reflect that risk. (In 2015, District Attorney Singas worked with legislators to devise a package of bills that addressed opioid issues ranging from the inappropriate weight standards for heroin to correcting the reckless manslaughter statute to apply to dealers. See the relevant portions of the proposed statute at the conclusion of these remarks).

In the meantime, the D.A.'s Special Operations, Narcotics and Gangs Bureau is focused on high level drug dealing networks that seek to profit from poisoning our community. In 2018, we conducted wiretap investigations on 112 phones. This was more than any of our neighboring jurisdictions except for Queens and the 135 phones investigated by the Special Narcotics Prosecutor which covers all of New York City.

Major long-term operations like "Gram Slam" resulted in the first Major Trafficker conviction in Nassau County in 2018. The dealer in that case sold heroin and cocaine valued at more than a quarter million dollars to just 3 customers in a 3 month period. Those customers then re-sold the drugs to users. More than a kilo of drugs were recovered during the execution of search warrants. The dealer received a life sentence for peddling his poison into Nassau County. In spite of this, a recent takedown resulted in the seizure of 400 grams of deadly fentanyl in Nassau County. A few grains have the potential for death and nearly half of a kilo was seized. The District Attorney's message is clear. High level dealers will be prosecuted to the fullest extent of the law. It simply will not be tolerated. It can't be. We must cut off the supply of these deadly drugs.

On the other hand, District Attorney Singas remains committed to getting drug users the help they need to break the cycle of addiction. She created the Phoenix Program to provide second chances to a variety of non-violent offenders, including drug users. The D.A. believes that it is not enough to send defendants to just any treatment. We have heard from defense attorneys and defendants that some treatment providers do not provide quality care. Phoenix seeks to insure that quality treatment is received quickly by drug users. This gives them the best chance of overcoming their addictions. Everyone benefits from a defendant who succeeds in treatment . Public safety is enhanced by less recidivism and the drug user gets his or her life back.

In 2018 the Phoenix staff vetted thirty-three additional agencies. The D.A.'s Office now collaborates with sixty-eight agencies and programs overall. In the process five agencies were identified as not approved for partnership and three additional agencies are being monitored with caution. In 2018 Phoenix also conducted sixteen agency and program site visits and investigated complaints by defendants against seven agencies. The D.A.'s emphasis has resulted in more

than a 300% increase in Treatment Court assessments in 2018. In addition, approximately 25% of the pending felony case load in County Court is in Judicial Diversion Court.

Out of court treatment is the final prong in the D.A.'s strategy. In 2015 D.A. Singas announced her intention to use nearly \$600,000 of asset forfeiture money – seized as the result of criminal activity, including drug dealing – to provide additional funding to Maryhaven's New Hope program, Nassau County's only crisis and intervention, residential facility. It is still Nassau's only stabilization center. It has 30 beds. In 2015 New Hope had limited admission hours and was unable to provide medically assisted treatment. It was a surprising struggle to find qualified staff and break through the red tape but New Hope is now able to admit patients in need around the clock, seven days a week. More than 2,600 people have received initial treatment from New Hope and have been referred to long term treatment to continue their recovery. D.A. Singas refers to this as filling the treatment gap.

We learned in this process that when people are in crisis; when they overdose, when they are revived with the miracle of Naloxone and are taken to a hospital emergency room, they are stabilized and released. Medical protocols do not identify opioid withdrawal as life threatening so patients are not admitted. They are released in the worst throes of withdrawal. They are given information about obtaining treatment "later" and they are back out on the street – back out to get more drugs to make the addiction sickness go away; to feel "normal". The cycle can continue until death.

Some hospitals have engaged peer counselors to encourage the patient to follow through with treatment. Any help and support are welcome and important. But after reviewing the studies and attending the conferences, a number of things are clear. First: immediacy of treatment after a crisis like an overdose is necessary to help insure success. Second: the person in crisis must have a physical place to go to safely withdraw from drugs with medical support. Third: There are ongoing debates between the providers of various types of treatment ranging from "talk therapy" to 12 step programs to medically assisted treatment programs. Data about the long-term success of these programs is shrouded in secrecy and privacy laws. But available evidence tends to show that medically assisted treatment, in conjunction with "talk therapy" has a higher success

rate. Therefore, induction into medically assisted treatment should be available in the emergency room seven days a week, 24 hours a day.

District Attorney Singas met with the heads of two hospital systems, and the heads of two hospitals on these issues. There was staggering red tape to be overcome in this time of crisis to get a cooperative program off the ground that allows New Hope counselors to come directly into a hospital's ER to begin counseling and to literally transport a patient in crisis back to New Hope – to fill the gap between the ER and long-term treatment. The program is finally in place on a pilot basis but as I sit here today there is still no adolescent version of New Hope in spite of the DA's efforts to have one created. Complications with sustainable funding for adolescent treatment were among the issues cited.

The D.A. is the mother of seventeen year old twins. She frequently asks out loud: “What would I do? What would any parent do if they got the call from the ER that their child had overdosed?” No parent is prepared to deal with their child being desperately ill from withdrawal. And yet, 10 years into this crisis, there is still nowhere for that adolescent to physically go to safely withdraw in a medical setting. How can that be?

Nassau County is home to 1.3 million people. Tragically 82 people lost their lives to opioid addiction in 2010. The numbers reached a peak in 2016 when 195 people died. Since then, the strategies in Nassau County have resulted in a 24% reduction in deaths down to 147 in 2018. While the downward trend is welcome, no one is celebrating the loss of 147 lives. Nassau County will continue its multi-pronged, cooperative approach but we believe the takeaway has to be that red tape has no place in a public health crisis. Immediate access to medically assisted treatment is essential for all ages. Data demonstrating the most effective treatments must be made accessible. We would also like to request the legislature to reconsider the issue of criminalizing dealers who kill through the drugs they supply. And there needs to be local recovery support to help our family members, neighbors and friends avoid the pitfalls of relapse. We are so grateful for the opening of a Thrive – recovery support center in Nassau County this past March. Each step is heading in the right direction. We just need to do more and faster. Thank you.