

Members of the committee,

Good morning. My name is Michael Warren and I am a lieutenant with the Burlington Police Department. I have been a police officer for nineteen years and I am currently the supervisor of the detective bureau overseeing the department's Narcotics Unit. I have served as a detective assigned to the DEA drug task force and I have assisted with my drug related death investigations. I want to first say that the Burlington Police Department is committed to taking a progressive approach in responding to the opiate crisis. The department is currently engaged in an ongoing process called Community Stat where various government and social service organizations meet for the purpose of evaluating our current practices and working towards more collaboration between all groups to help all those who are affected by the destruction that Heroin causes.

During my time as a Burlington Police Officer and more currently as the supervisor of the detective bureau and narcotics unit, I witness daily the effects opiate's have on those who are addicted. This problem is extremely complex and currently I believe that a lack of accessible and immediate treatment options are one of our biggest problems.

As it relates to the proposed legislation, I would like to point of two things related to heroin. First of all, I would like to remind you how dangerous heroin is and its potential to cause life threatening harm. Since January of 2017 (five weeks ago), BPD has investigated four fatal drug overdoses related to opiate use. BPD has also responded to three other overdoses where individuals would likely not be alive if not for the use of Naloxone. Furthermore, drug users don't know what their heroin is mixed with so when they inject their usual quantity of heroin they can inadvertently take a deadly dose. During a recent BPD investigation, the substance that a drug dealer was selling in the Burlington area was determined to have been cut with Fentanyl. In another recent case, the substance that a group of drug dealers were selling as heroin was determined to be pure Fentanyl. Fentanyl is a potent synthetic opiod that is much stronger than heroin and looks identical to it so users don't know what their actually taking when they put the drug into their body.

Second of all, I would like to remind you of the devastation that this drug causes in people's lives. During a recent BPD investigation, officers encountered a twenty-two year female at a residence where officers executed a search warrant related to drug distribution and firearm possession. The woman reported that she was addicted to heroin and was exchanging sex with all three male subjects who lived at the residence in exchange for drugs on a daily basis. The woman indicated that she wanted to get help and get out of this lifestyle so officers made arrangements to have resources available for her. Unfortunately, she didn't follow-up and she hasn't spoken to officers since that time. Sadly, it is not unusual for addicts to get in this situation. Several BPD investigations have revealed instances where woman are prostituting themselves to make money to support their habit or are simply exchanging sex for heroin.

I understand that the intent of this bill in regards to raising the threshold for heroin possession is to prevent individuals who are struggling with opiate addiction to avoid getting a felony conviction and the consequences that come with that. According to the Vermont Forensic Laboratory, the weight of an average bag of heroin is about 31 milligrams. Therefore, the threshold for a felony conviction would go from about seven bags of heroin to about thirty two bags of heroin. In establishing this threshold, the committee contends that this is a daily dose of heroin that a user could be carrying on his/her person. Although I have heard of people using 30 bags of heroin a day, this is not the norm for most users. In my experience, a 30 bag a day habit is extreme and a person using that much heroin is in a dire situation and has a very high risk of life threatening harm. Considering that the average price for thirty bags of heroin (one gram) is about \$300, a user would have to spend more than \$2,000 per week to support their habit. In my experience, addicts with this severe of an addiction will commit many other crimes to support their habit and will most like have other involvement in the criminal justice system.

I believe that thirty bags of heroin (one gram) is an amount more consistent with what a smaller scale heroin dealer might obtain at a time for distribution. During two recent investigations, BPD identified a middle aged Burlington resident who was obtaining forty bags of heroin at a time, a little more than the one gram threshold that is proposed. It was determined that this individual was using some of the heroin and distributing the rest in smaller amounts to various customers in

Burlington. Although this individual would be considered a smaller scale heroin dealer, he was recently identified as the source of heroin for a fatal drug overdose. In this instance, he was obtaining what would be considered a smaller amount of heroin however he was still involved in distributing heroin, which likely contributed to another individual's death.

Rule 3 of the Vermont Rules of Criminal Procedure gives officers broader discretion when dealing with felony offenses. The officer may issue a citation to the suspect, but the officer also has the authority to immediately bring the defendant to Court for arraignment. Thus, under the proposed legislation, an individual arrested with up to one gram (30 bags) of heroin would be charged with a misdemeanor offense and pending other exceptions, would have to be released on a citation to appear at court at a later date. I believe that when addicts are arrested that it is imperative to get them into court as soon as possible in order to get them connected to services and try to start down a road of treatment and recovery. Frequently, individuals who are addicted to heroin will not voluntarily seek services or treatment or if they do are placed on waiting lists. For some people, an arrest can be a chance at an intervention for that person.

The State of Vermont has recognized opiate addiction as a public health issue, not a criminal justice issue. I believe that our elected State's Attorney's are keenly aware of this and are best suited to evaluate defendants that fall into this category on a case by case basis and use their prosecutorial discretion in obtaining meaningful outcomes that benefit both the defendant and the community.

In Chittenden County, programs such as the Rapid Intervention Community Court ("RICC") and Treatment Court are currently being used for individuals who the legislation is intended to protect. These programs allow offenders to not be charged with a crime or receive reduced sentences as an incentive to engage in wrap around services related to treatment, housing, employment, etc.

During the months of November and December 2016, the Burlington Police Department arrested 6 individuals and made treatment facilities available to them. BPD detectives drove the addicts to treatment facilities up to two hours away in an effort to intervene and offer help. In each of these instances the subjects left treatment almost immediately and at the longest one person stayed for two days

before leaving the facility. These Drugs have an extremely powerful affect on the people who are addicted to them.

A review of the Burlington Police arrest statistics for 2016 was completed and out of 82 arrests, only 4 arrests fell into the group between 200 milligrams and one gram. Of the four cases that would be affected, one case was expunged, one defendant later died of a heroin overdose and the remaining two cases are still pending. This number, four cases, can make an argument for both sides. On one side it is only four cases that may be affected by the change in the law. However, if the overall concern of the legislature is that we are convicting low level users with felony offenses that are leaving a lifelong stigma attached to them, I do not think there is any data to support that. I also do not think that someone who has a 30 bag a day habit is going to be affected by a felony conviction on their criminal history (if they are actually charged and convicted in the end). These people have most likely burned every bridge they have, they have most likely stolen from every person that they know, and they have an extremely high chance to have long lasting physical and emotional negative consequences tied to their life of addiction.

In June of 2015 two brothers obtained one bundle (ten bags) of heroin. The bags they obtained, although sold as heroin, contained fentanyl. The two brothers split the bundle, each using five bags. The two brothers were both found dead on the front porch of their residence by their parents the following day. In Chittenden County there are approximately 1-2 Heroin related deaths every week. This is not a time that we should be focusing on lessening the penalties for those in possession of such a powerful drug that is killing people.

I have a copy of a letter that was written by a heroin addict and defendant in a drug case in Vermont. The letter provides his perspective on the court process. He says in the letter "Please don't stop what you are doing. People need to know there are consequences for their actions. Some people need to feel those consequences in order to find themselves". He also says "thank you for holding me accountable". I want you all to know that I do not believe that simply arresting addicts, putting them in jail and throwing away the key is the answer to the problem we face. I see this problem first hand almost every day from the victims of burglaries, larcenies and frauds to the death investigations where I am woken at 3am and respond to the scene to assist investigating. I have gone through many pants pockets of deceased

individuals looking for their identification and I have made face to face in-person notifications to family members to inform them that a loved one has died of an overdose. Until we have a better system in place that is working, law enforcement needs the ability to arrest and continue custody of individuals that are in possession of Heroin and there needs to be significant resources put in place to assist those individuals at those critical times when we can have the ability to impact them the most. If we can save one of those four individuals from overdosing and dying it would be worth leaving the law the way it currently stands.

Thank you.