

**[SLIDE 1]**

## **I. Clarion County Situation Prior to 2000.**

**A. Extent of the Drug Problem.** From 1992 through 1999 I worked either in a private criminal defense law firm or as the Assistant Public Defender in Clarion County. So I come before you with a view of this issue from both sides of the courtroom. While I did my best to represent my clients, I could not help but notice the destruction that drugs brought to the lives of those addicted to drugs. Even though heroin had not yet appeared in Clarion County, I observed first hand the out of control helplessness that afflicts those addicted to drugs. I would question my clients as to why they continued to engage in criminal or self-destructive behavior, almost invariably the answer was drugs. In the 90's it was prescription drugs, cocaine, or marihuana.

**B. Prosecution in the 1990's.** From my representation of criminal defendants I knew the extent of the drug problem in Clarion County. However, at that time criminal prosecutions for trafficking in illegal drugs was virtually non-existent in Clarion County. In 1999, I ran for District Attorney on a platform of addressing the drug trade and was successful. My opponent accused me of exaggerating the problem, citing the lack of drug arrests in Clarion County as indicating that there was not a drug problem in Clarion County. I point this out to urge you to keep in mind that a lack of drug arrests in an area does not indicate a lack of a drug issue. It may just indicate a lack of motivation to address the problem.

## **II. 2000 to approximately 2005.**

In all honesty, I must tell you that when I first became District Attorney in 2000, that if someone would have told me that within ten years heroin would be the number one criminal issue in Clarion County I would have laughed. At that time heroin was not here, and heroin was considered a drug of the 1970's. No one used it because it had to be injected and it was not a drug of choice.

## **III. Clarion County Drug Trends.**

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## **IV. Treatment Court.**

Several years ago, through grant funding from PCCD, Clarion County initiated a Treatment Court Program. The grant funds the position of one probation officer who supervises all participants in the program. Treatment Court sessions are held once a week before Magisterial District Judge Amy Turk. At each session the

participant's progress or lack thereof is reviewed before the judge. The program is able to provide a system where addicts are held accountable for their actions - often for the first time in their life. Participants are put under the intensive supervision program where they will likely see their probation officer at scheduled or unscheduled times at least once a week. They are required to submit to random drug tests, and to seek and / or maintain employment. One Treatment Court graduate often appears at anti-drug presentations put on by myself and other county agencies.

Our Treatment Court has had its share of success stories, and its share of failures. I believe that most Clarion County officials involved in the Treatment Court program would agree with my opinion that it is a very beneficial program. I also believe they also would concur with my opinion that if the objective is to have fewer heroin addicts there is a fundamental flaw in the way the program is administered.

Since the Commonwealth, through PCCD, provides the funding for Treatment Court - they set the rules on how it may be operated. While it is a legitimate objective to reduce costs by reducing the number of addicts sentenced to state prison, it is my opinion that the proper objective - having fewer addicts - is getting lost in the process.

Under the state mandated guidelines only Level 3 & 4 offenders are eligible for Treatment Court.

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This is the Basic Sentencing Matrix that applies to all criminal cases. Offense gravity score [OGS] goes up with the severity of the offense, starting with possession of a small amount of marihuana at OGS of 1 through attempted murder at OGS of 14.

On the horizontal the recommended sentence varies according to the Prior Record Score [PRS] of the Defendant.

To help understand this, the numbers on the chart are months in jail or prison, "BC" stands for Boot Camp and "RS" is restorative sanctions or probation.

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As you can see from the listed "Example Offenses" listed under Level 3 (blue shaded), which recommends either State or County incarceration or intermediate punishment. Some of the types of offenses are: Aggravated Assault; Burglary; Arson; Delivery of more than two but less than five grams of cocaine. Generally Felony 2 offenses

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Under Level 4 (yellow shaded) the required offenses are even more severe: Aggravated Assault with a deadly weapon; Theft of a Firearm; Theft of more than \$100,000; and delivery of over 10 but less than 50 grams of cocaine.

Usually, by the time an addicted offender commits a level 3 or 4 crime and is eligible for Treatment Court they have committed several offenses and been in the system for years. And likely every participant, - prosecutor, Magistrate or public defender - in the criminal justice system knows, or has very good reason to believe, that the root cause of their criminal activities is their drug addiction.

Why hasn't that addict been in Treatment court?

The criminal activities of addicts are a progressive process. They do not start at Level 4, as you see here. They do not start out burglarizing homes - they do not start out dealing large quantities of drugs - they do not start out stealing over \$50,000.

They start here - Level 1 and Level 2.

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They start with the bad checks the credit card fraud, the misdemeanor thefts. Clarion County has a Central Court system where all Preliminary Hearings are held on Tuesdays with anywhere from 15 to 30 cases each week. That is where we all see the early stages of addiction. Early stage addicts are constantly showing up in Court with bad checks, identity theft, retail theft charges. Eighteen to twenty year olds do not show up at Central Court five separate times for bad checks in a year because they are bad at math. They aren't rushing the door at Wal-Mart with three televisions in a cart because they want to watch television. They do it for drug money. That is where I see parents - good parents - asking for help before they lose their child. Can we offer these people Treatment Court? Under the state guidelines these people are ineligible for Treatment Court.

When I explain this system to parents who know that Treatment Court exists, their reaction often is, "So we have to wait till my kid commits a felony burglary before we can get him the help he needs in Treatment Court?"

When young people are first appearing in the criminal justice system at Levels 1 & 2 is when programs such as Treatment Court have the greatest chance of turning around a young life. The Level 1 and 2 offenders are by definition not the hardened criminals - yet. However, barring them from entry into beneficial programs such as Treatment Court only increases the likelihood that is exactly what they will become - heroin addicted hardened criminals.

### **III. Utilization of Treatment Resources.**

#### **A. Medical Assistance Jail Pilot Program.**

B. Current Utilization of Resources.

#### **IV. Lack of Law Enforcement Resources.**

A. PSP.

1. Lack of sufficient patrol Troopers at Clarion Barracks.
2. Elimination of Troop "S".
3. Allocation of Troopers to other areas of the state.

B. Sheriff

*Commonwealth v. Marconi*, 619 Pa. 401, 64 A.3d 1036 (2013);  
*Commonwealth v. Dobbins*, 594 Pa. 71, 934 A.2d 1170 (2007);  
*Commonwealth v. Leet*, 537 Pa. 89, 641 A.2d 299 (1994).

C. Clarion University Officers.

*Commonwealth v. Durso* 86 A.3d 865, 2013 WL 3963714 (Pa.Super. 2013).

B. Local Officers.

#### **V. Senate Bill 1180 - Prescription Drug Monitoring Program**

Passage of SB 1180 in its present form with "Reasonable Suspicion" standard for law enforcement to seek judicial approval for access to the system.