



Office of the
Special Narcotics Prosecutor
for the City of New York

Bridget G. Brennan, Special Narcotics Prosecutor

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June 3, 2013

City Council Speaker
Honorable Christine C. Quinn
City Hall, First Floor
New York, New York 10007

Re: Funding Request for Prescription Drug Investigations

Dear Speaker Quinn,

I am writing this letter with regard to our request to the Public Safety and Finance Committees for \$250,000 in additional funding to support our work fighting prescription drug abuse in New York City. We deeply appreciate the Council's continued efforts to ensure that the City's prosecutors' offices receive sufficient funds to assure that public safety is protected and that the interests of justice are served.

While New York City is at the forefront of efforts to curb the availability of narcotic pain drugs and to increase public awareness, statistics show the problem is still spiraling out of control. Earlier this month, the New York City Department of Health and Mental Hygiene released alarming data showing the citywide rate of overdose deaths from prescription opioid painkillers increased by 65% between 2005 and 2011. Citywide, 220 people died of fatal opioid painkiller overdoses in 2011, or more than one overdose death every other day. While rates increased in all five boroughs, Staten Island suffered the most dramatic spike. Between 2005 and 2011, rates of opioid painkiller deaths in Staten Island increased by 261%.

Meanwhile, the number of prescriptions for narcotic painkillers filled in New York City has continued to increase. My office analyzed New York State Health Department data on prescriptions for oxycodone between 2007 and 2012 and found that the number of oxycodone prescriptions filled in New York City increased by 138% during those five years. In 2012, there were 1,279,655 prescriptions for oxycodone filled citywide – a 7% increase over 2011.

As a result of the escalating problem and growing public awareness, referrals are pouring into to our office. Investigation and prosecution of these cases is extremely complex and difficult, requiring expertise related to the practice of medicine, patient confidentiality issues and the pharmaceutical industry. We are working with a variety of experts to help us to understand and navigate this new territory.

We are also faced with inadequate laws and regulations governing the prescribing and dispensing of controlled substances. My office has been at the forefront of policy development, legislative work, and coordination with other city, state and federal agencies with jurisdiction over these issues. Because of these new challenges and issues, the cost of investigating and prosecuting prescription drug cases is much higher than we had anticipated.

While we truly appreciate the funding we have received to date from the Mayor and the Office of Management and Budget (OMB), we anticipate a shortfall of almost half a million dollars in fiscal year 2014 for our office-wide work combatting the abuse of prescription drugs. The new needs funding we received for our Prescription Drug Investigations Unit only covers approximately 60% of the cost of running the unit. More importantly, the work of curbing prescription drug diversion and abuse is shouldered by the entire office, and is not limited to the Assistant District Attorneys, analysts and investigators assigned to the Prescription Drug Investigations Unit.

In fiscal year 2014, even with the new needs funding provided by OMB, our projected City funds will be \$287,113 less than our actual City funding for fiscal year 2010. This funding reduction is the culmination of the loss of our long-term cash grant for \$850,000 from the City Council, and the elimination of DA revenue funding ranging from \$99,734 in fiscal 2010 to \$433,970 in fiscal 2011. We are now requesting \$250,000 to deal with this shortfall, because the City restored only \$603,662 of our \$850,000 Council grant in 2011. We ask the City Council to cover these costs, as we seek additional revenue from other sources.

Prescription Drug Investigation Unit

Now in its second year, my office's Prescription Drug Investigation Unit continues to be inundated with referrals. Its mission is to cut off the illicit supply of painkillers and other highly addictive prescription drugs at the highest level possible. Since the unit's creation, we have indicted five physicians on charges ranging from Criminal Sale of a Prescription for a Controlled Substance to Manslaughter, as well as numerous other medical professionals, including physicians' assistants, office managers and pharmacists.

Due to the complex and time consuming nature of these cases, and skyrocketing numbers of referrals, we are devoting more and more resources to these cases on a daily basis. As we persevere in our efforts to confront the prescription drug epidemic, the costs keep climbing. These prosecutions require experienced prosecutors and dedicated, trained investigators. The Assistant District Attorneys, investigators and analysts who handle these cases for my office are increasingly spread thin.

Our focus in this area began with an investigation we conducted with the Staten Island District Attorney's Office in 2011, involving the widespread distribution of narcotic painkillers through an ice cream truck. This nine-month investigation resulted in the arrest of 31 members of an extensive drug trafficking ring, including the two ringleaders and an office manager for a Manhattan orthopedic surgeon. Since that time, our investigations have only grown in complexity.

An investigation that well illustrates the time and effort required in prescription drug cases is our prosecution of a doctor on homicide charges for two patients' deaths. Dr. Stan Xuhui Li, an anesthesiologist at a New Jersey hospital, operated a weekend pain management clinic in Flushing, Queens, where patients lined the sidewalk waiting for the doors to open on Saturday mornings. A two-year investigation culminated in a 219-count indictment charging the doctor with two counts of manslaughter, multiple counts of reckless endangerment and illegal sales of prescriptions for controlled substances to 20 patients of the clinic, in addition to other crimes. Here are just some of the investigative steps taken in connection with this case:

- A painstaking review of Medical Examiner records revealed 16 fatal overdoses among Dr. Li's former patients. Investigators conducted a by-hand comparison of Dr. Li's patient lists and thousands of names in Medical Examiner records.
- After reviewing evidence, the grand jury charged Li with Manslaughter in the 2nd degree for two of the 16 deaths.
- Over 200 witnesses interviewed, including the fatal overdose victims' family members, patients

and their relatives, neighbors, pharmacists, physicians, law enforcement officers and medical examiners.

- Over 200 subpoenas issued for prescriptions, prescribing histories, medical records, medical examiner case files and death records, bank accounts and civil court files.
- Nearly 1,300 medical files examined, including more than 10,000 pages of documents.

During the course of this investigation, one of Dr. Li's patients shot and killed four innocent people in a Medford, L.I. pharmacy. Information gathered by my office was instrumental in the arrest of shooter David Laffer and his wife Melinda Brady by Suffolk County authorities.

Attached are news clippings related to this case, as well as another more recent investigation into a Gramercy Park medical practice that resulted in 49 arrests in New York, New Jersey and Pennsylvania and the seizure of 30 firearms. A doctor and his office manager illegally distributed prescriptions for approximately \$10 million in narcotic painkillers.

Additional Funding Needed

We need support from the City Council to continue our initiatives in this important area. It has been three years since the Office of the Special Narcotics Prosecutor has received any funding from the City Council. The prescription drug problem is of citywide concern and it is imperative that the Council appropriate funds to support our enforcement efforts.

We ask that the City Council renew the cash grant it provided us in fiscal year 2011 and prior, but for the shortfall amount of \$250,000 only, so we have the additional resources needed to pay for costs associated with the investigation and prosecution of prescription drug cases.

Thank you for your consideration of this proposal. Please contact Executive Assistant District Attorney Kristine Hamann, (212) 815-0554, should you have any questions.

Sincerely,

Bridget G. Brennan
Special Narcotics Prosecutor

Cc: Honorable Domenic M. Recchia, Jr., Finance Committee Chair
Honorable Peter F. Vallone, Jr., Public Safety Committee Chair