Oregon
John A. Kitzhaber, M.D., Governor

Governor's Advisory Committee on DUII
c/o Transportation Safety Division, MS-3
4040 Fairview Industrial Drive SE
Salem, OR 97302-1142
Phone: (503) 986-4190
Fax: (503) 986-3143

DATE: February 4, 2013

TO: House Judiciary Committee

FROM: Deputy Joshua Wilson; Washington County Sheriff's Office

SUBJECT: House Bill 2117

Introduction:

My name is Joshua Wilson and I have been a sworn Deputy with the Washington County Sheriff's Office for over ten years. House Bill 2114 addresses an urgent need to expand the definition of our DUII statutes to include many uncontrolled prescription medications, over the counter drugs, and synthetic drugs that currently do not meet the definition of DUII in Oregon. The impairing effects of many of these drugs is oftentimes as significant as their controlled-substance counterparts, even at prescribed therapeutic levels, and the danger of operating a vehicle while under the influence of these drugs cannot be understated.

In addition to my Advanced Police Officer certification, I am also trained and internationally certified as a Drug Recognition Expert (DRE). This certification includes extensive classroom and field training on seven drug categories, each of which have their own unique set of signs and symptoms of impairment. My job as a DRE is to evaluate people who are under arrest for DUII, and who are suspected of being impaired by substances other than—or in addition to—alcohol.

In a drug influence evaluation, I administer psychophysical divided attention tests, check vital signs, measure pupils, and test the eyes for the presence of nystagmus, among other things. Alcohol and other drugs affect the human body, including the central nervous system, in various ways; ways which are evident through the tests and measurements of a drug influence evaluation. I have personally evaluated people arrested for DUII who were significantly impaired, yet whose toxicology results lacked the presence of any controlled substances.

Background: Examples

I. KRATOM

In spring of 2012, I conducted an evaluation on a person under the influence of a non-controlled drug called Kratom. Kratom is a naturally-occurring psychotropic plant material, derived from the *Mitragyna speciosa* tree, which is native to Thailand. Because of its dangerous effects, Kratom is illegal to possess in many countries, including Thailand, Australia, Malaysia, and Myanmar. At low doses, its effects are similar to those of Central Nervous System (CNS) Stimulants (e.g., elevated pulse rate, elevated blood pressure, rigid muscle tone, restlessness, and muscle tremors). At higher doses, however, a person will exhibit signs of impairment similar to those of Narcotic Analgesics, or opiates (e.g., decreased pulse rate and blood pressure, flaccid muscle tone, depressed reflexes, and drowsiness).

The driver I evaluated had a powdered form of Kratom in his possession at the time of his arrest that he purchased from a local "head shop" in Portland and used recreationally. In his evaluation, he was restless, had difficulty performing divided attention tasks, displayed muscle tremors, and had dilated pupils and an elevated pulse, among other things. His impairment was clear yet his toxicology result showed nothing in his urine. The DUII charge was dismissed because of the lack of controlled substances in this driver's toxicology result.

II. PRESCRIPTION NON-CONTROLLED DRUGS

In 2009 and 2010, I evaluated the same female on two separate cases. In 2009, I evaluated her after she caused a 4-car crash in Sherwood. In that evaluation, the driver told me that she was currently prescribed thirteen different medications for her disorders. She was significantly impaired, with difficulty standing, slurred speech, severe balance issues, and elevated pulse rate and body temperature. Her pupils reacted slowly to light stimuli and she exhibited horizontal gaze nystagmus (the involuntary jerking of the eyes across a horizontal plane that is seen when someone is under the influence of a CNS Depressant). Her toxicology results showed that the only drug in her system was Cogentin (a.k.a. Benztropine), a prescription CNS Depressant which can also cause blurred vision and impaired reactions. In that case, the DUII charge was dismissed because of the lack of controlled substances in her toxicology report.

Approximately six months later, I evaluated this driver for the second time. In this case, she was arrested by Beaverton Police after nearly causing another crash. When I evaluated her, she exhibited most of the same signs of impairment as she had during the previous evaluation, but was not as severely impaired. She told me that she had consulted her doctor after the last incident, and her doctor immediately discontinued seven of the medications from her daily regimen. She told me that she was aware of how her current medications made her drowsy, and was also aware of the difference in her level of impairment. The new list of medications that she described in this incident included no controlled substances. Her toxicology report showed only the presence of Wellbutrin and Doxylamine, both CNS Depressants that are not controlled substances.

Summary:

These are just a few examples of impaired driving cases that I have investigated where drivers are dangerously impaired by the drugs they consume, yet the drugs that impair them do not currently meet the definition of DUII in our state.

I ask you to consider the danger of these drugs and the impairment they cause in drivers on Oregon's highways. As a law enforcement officer, I have a sworn duty to protect the citizens of Oregon. Expanding the definition of DUII to include these drugs will help me and my fellow officers to continue to do so.