

Children's Justice & Advocacy Report

To promote community responsibility so every Pennsylvania child is protected from child abuse, including sexual abuse.

Pennsylvania's heroin and opioid "epidemic" jeopardizes early childhood *Family First Act provides vehicle to promote upfront, evidence-based Plans of Safe Care*

Introduction

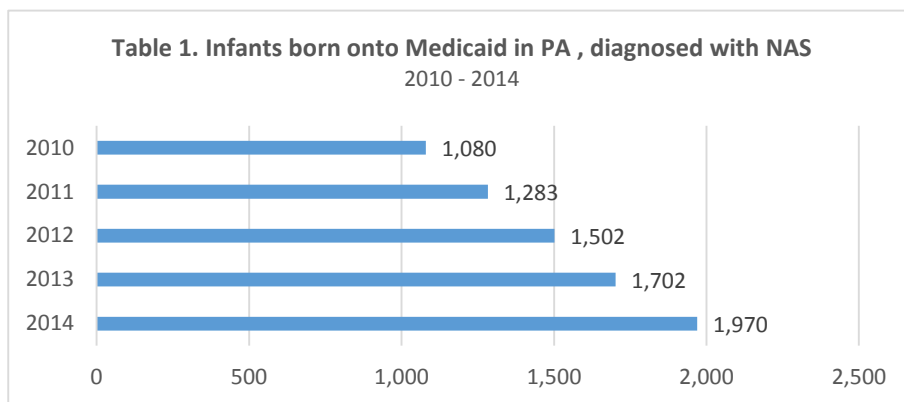
More than 7,500 infants were born onto Medicaid and diagnosed with Neonatal Abstinence Syndrome (NAS) in Pennsylvania between 2010 and 2014 (*Table 1*).¹

The immediate and long-term impact of Pennsylvania's heroin and opioid "epidemic" on the safety, health, and school readiness of the Commonwealth's infants and toddlers has yet to be fully explored by the media or to have ignited a sense of urgency within the public policy arena.

As a consequence,

Pennsylvania has yet to identify a robust cross-systems agenda toward the accurate and timely measurement of the scope of the problem or the development of evidence-based clinical and community-based interventions for these infants and their families confronting the chronic health condition of addiction.

An additional complication is the distinct disconnect between federal law requiring that a health care provider report certain substance-exposed infants to a child welfare agency, but then federal child welfare dollars too rarely are permitted to be used to provide upfront, evidence-based, and time-limited services to keep the child safe, nurtured and protected at home. Federal law rightly recognizes the value in early detection toward averting child maltreatment or further crisis within the family, yet federal funding is disproportionately restricted often becoming available only once abuse has occurred or a crisis is exacerbated forcing the young child to be removed from the family and placed in foster care.



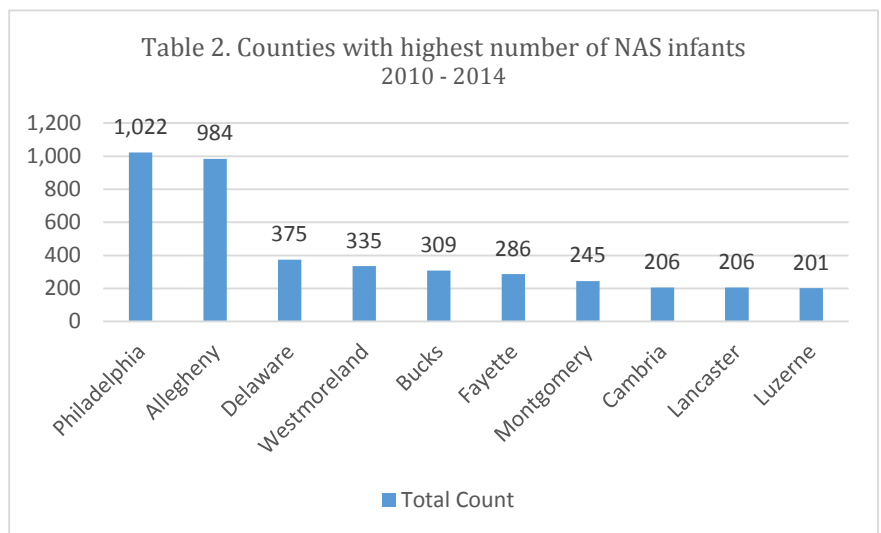
¹ This document identifies the number of infants born onto Medicaid that were diagnosed with Neonatal Abstinence Syndrome (NAS) in Pennsylvania between calendar years 2010 and 2014. The data was obtained through a Right to Know (RTK) request filed with the Pennsylvania Department of Human Services (DHS) in September 2015. PA DHS supplied the data on January 15, 2016. PA DHS supplied the data about the number of infants born onto Medicaid and having the diagnosis code of 779.5 (Neonatal withdrawal symptoms from maternal use of drugs of addiction).

Understanding and reliably measuring NAS

Heroin and other opioids taken during pregnancy, including drugs prescribed to a pregnant woman as part of her participation in substance abuse treatment (e.g., Methadone Buprenorphine), can result in a withdrawal syndrome for infants. Based on 2012 data, the National Institute of Drug Abuse (NIDA) reports that one baby was born in the United States “suffering from opioid withdraw” every 25 minutes.²

NAS, which is also known as neonatal withdrawal syndrome, refers to “a constellation of typical signs and symptoms of withdrawal that occurs in infants that have been exposed to and have developed dependence to certain illicit drugs or prescription medications during fetal life.”³ A baby who is diagnosed with NAS can cry excessively, experience tremors or seizures, and suffer from a low birth weight that can be further complicated by difficulty eating. These babies have complex medical complications that often require extended and expensive treatment in a hospital’s neonatal intensive care unit (NICU) after birth and prior to discharge. Recent research from Vanderbilt University indicates that babies born with NAS “are nearly 2.5 times as likely to be readmitted to the hospital in the first month after being discharged compared with full-term infants born without complications.”⁴

Retrieving reliable data about NAS is hampered, in part, because NAS is not a reportable health condition in Pennsylvania. This impacts the ability for timely analysis about the scope of the problem, the type of exposure (e.g., illicit drugs or prescribed drugs as part of substance abuse treatment) that led to the NAS diagnosis, the outcomes for these infants, and the costs associated with NAS. Recently, the Pennsylvania Department of Human Services (PA DHS) did respond to specific data questions put forth by the Center for Children’s Justice. Based on the data provided C4CJ learned:



- In 2014, NAS diagnosed infants represented approximately 3 percent (n=1,970) of the babies born onto Medicaid (n=64,001) in Pennsylvania.
- The average length of stay (ALOS) in an inpatient setting immediately following the infant’s birth in 2014 was 15.53 days.
- 61 infants born onto Medicaid and diagnosed with NAS, between 2010 and 2014, died before celebrating their 1st birthday.
- Two PA counties (Forest and Sullivan) did not record any infants born onto Medicaid and diagnosed with NAS between 2010 and 2014.

² <http://www.drugabuse.gov/related-topics/trends-statistics/infographics/dramatic-increases-in-maternal-opioid-use-neonatal-abstinence-syndrome>

³ Neonatal Abstinence Syndrome Clinical Management Document, Gateway Health Plan, August 2010. Retrieved at https://www.gatewayhealthplan.com/sites/default/files/documents/PAMA_neonatal.pdf

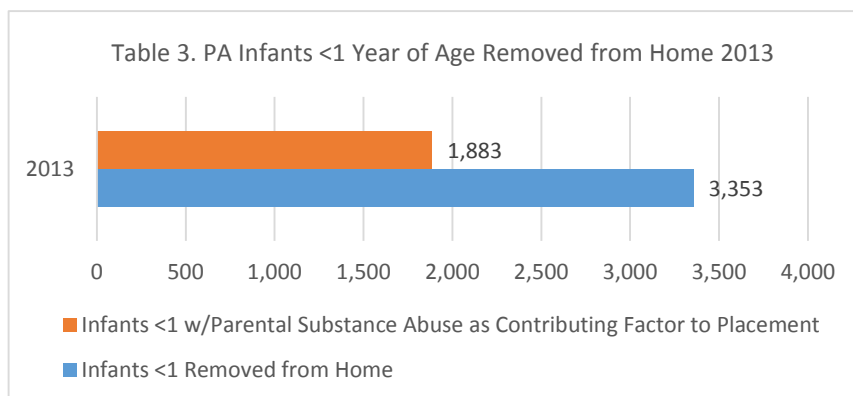
⁴ <http://news.vanderbilt.edu/2015/10/infants-born-with-nas%E2%80%88more-likely-to-be-readmitted-study/>

- As illustrated in Table 2, Philadelphia recorded the most infants diagnosed with NAS (n=1,022). Philadelphia was followed by Allegheny County (n=984), Delaware (n=375), Westmoreland (n=335), Bucks (n=309), Fayette (n=286), Montgomery (n=245), Cambria (n=206), Lancaster (n=206), and Luzerne (n=201).

A diagnosis of NAS, in and of itself, is rarely fatal and yet some NAS diagnosed infants and other substance-exposed infants do die in that critical first year of life linked, in part, to existing medical conditions but also as a consequence of the child and family's life circumstances. Examples include:

- A 2-month-old died in Beaver County in March 2015. According to the PA DHS, the child died "as a result of serious physical neglect" after the victim child, the mother and the child's sibling "were all sleeping in the mother's bed."⁵ Initially all tests were "inconclusive" and the child's death "appeared to be accidental." A later toxicology report issued in July 2015, "indicated the child died from Methadone poisoning, and the child's death was ruled a homicide."⁶
- A 1-month-old died in Carbon County in October 2014 due to hazardous sleep conditions while in the same bed with his mother.⁷ The baby and mother were both prescribed Methadone, but on the night of his death his mother used other non-prescribed drugs as well.
- A 3-month-old died in Fayette County in March 2014. PA DHS' summary notes that the "mother had fresh track marks and has a long history of heroin addiction." Also that the mother had been prescribed Subutex and the infant "tested positive for this at birth."
- A 7-week-old infant died in Lackawanna County in January 2015. According to PA DHS, the baby was born "drug addicted."⁸

Beyond infants diagnosed with NAS, Pennsylvania's submission to the federal Adoption and Foster Care Analysis and Reporting System (AFCARS) provides some insight of additional consequences of parental substance abuse overall on young children. The AFCARS data reveals that 3,353 infants, under the age of one, were removed from their home in 2013 (Table 3). Fifty-six percent (n=1,883) were recorded as having parental substance abuse as a contributing factor to the out-of-home placement.⁹



Plans of Safe Care solid legislative intent amidst unconnected federal policies and funding

The federal Child Abuse Prevention and Treatment Act (CAPTA) requires that states assure that they have "Policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born with and identified as being affected by:

- *illegal substance abuse; or*
- *withdrawal symptoms resulting from prenatal drug exposure, or*

⁵ http://www.dhs.pa.gov/cs/groups/webcontent/documents/report/c_219870.pdf

⁶ Ibid.

⁷ http://www.dhs.pa.gov/cs/groups/webcontent/documents/document/c_211247.pdf

⁸ 2015 1st Quarter Fatalities/Near Fatalities published by the Pennsylvania Department of Human Services, page 2. Retrieved at http://www.dhs.state.pa.us/cs/groups/webcontent/documents/document/c_211247.pdf.

⁹ Children and Family Futures, Unpublished data, Analysis of the AFCARS dataset, 2013.

- a Fetal Alcohol Spectrum Disorder”

Such policies or practices must include “a requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants, except that such notification shall not be construed to—

- *establish a definition under Federal law of what constitutes child abuse or neglect; or*
- *require prosecution for any illegal action.”*

The state must also assure that some state policy or practice leads to the “development of a plan of safe care for the infant born and identified as being affected by illegal substance abuse or withdrawal symptoms, or a Fetal Alcohol Spectrum Disorder.”¹⁰

This CAPTA Plan of Safe Care provision was spearheaded by former Pennsylvania Congressman James Greenwood. During a 2002 Congressional debate, Greenwood spoke of a struggle that still exists in 2016: “These babies are born in hospitals, they are frequently underweight, and they are frequently frail. Much money and effort is devoted to bringing them to health. These children do not meet any definition of child abuse, and probably they should not, but what happens is they are sent home from hospitals every day in this country and it is only a matter of time in so many instances until they return back to the hospital abused, bruised, beaten, and sometimes deceased.”¹¹

Even as CAPTA requires states to certify that health care providers are required to notify the child welfare agency toward the development of a “Plan of Safe Care,” federal law does not then set aside specific funding for such plans nor is there an expectation of screening for and measuring the scope of substance-exposed infants. Consider that the federal Department of Health and Human Services (HHS), through its Health Resources and Services Administration (HRSA), outlines recommended screenings that should occur during pregnancy and upon an infant’s birth. Absent from the list is any related to prenatal substance exposure.¹² There is also no established data requirements about substance-exposed infants (e.g., overall numbers of infants diagnosed with NAS, services rendered and costs associated with those services, or children placed outside the home). In other words, the CAPTA provision exists in virtual isolation unconnected to other key federal laws or funding streams, including those authorizing the bulk of funding for child welfare (Social Security Act, Title IVB and IVE), maternal and child health (Social Security Act, Title V), or Medicaid. Additionally, there is little, if any, guidance about how required Plans of Safe Care should build upon (and prioritize) other key services and supports for infants and families (e.g., clinically appropriate drug treatment, evidence-based home visiting, early intervention, subsidized child care).

In 2011, the federal Administration for Children and Families (ACF) within HHS responded to a state inquiry as to which entity is responsible for the plan of safe care. ACF indicated that CAPTA did not specify whether it is the formal child welfare agency or another entity (e.g., hospital, community-based providers) expected to develop and implement this plan. ACF did, however, underscore that the plan “should address the needs of the child as well as those the parent(s), as appropriate, and assure that appropriate services are provided to ensure the infant's safety.”¹³

¹⁰ 42 U.S. Code § 5106(b)(2)(B)(ii)

¹¹ Congressional Record Volume 148, Number 46 (Tuesday, April 23, 2002). Retrieved at <http://www.gpo.gov/fdsys/pkg/CREC-2002-04-23/html/CREC-2002-04-23-pt1-PgH1502-5.htm>

¹² <http://www.hrsa.gov/advisorycommittees/mchbadvisory/heritabledisorders/recommendedpanel/index.html>

¹³ Child Welfare Policy Manual produced by the Children’s Bureau, an Office of the Administration for Children and Families. Question 2.1F.1 CAPTA, Assurances and Requirements, Infants Affected by Illegal Substance Abuse, Plan of Safe Care. Retrieved at http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=351

Family First Act provides opportunity for upfront, evidence-based Plans of Safe Care

Senate Finance Committee Chairman Orrin Hatch (R-UT) announced on the Senate Floor in December 2015 that he and Ranking Member Senator Ron Wyden (D-OR) have “reached an agreement on legislation that we called the Family First Act, which will increase the availability of prevention services to allow children at risk of going to foster care to remain safely at home and to reduce the reliance on group homes for children under the foster system.”¹⁴ Hatch continued, “As we all know, entering the foster care system can be particularly traumatic for a child” later stipulating, “Our bill would give States greater flexibility, with the goal of keeping children with family members.”

Pennsylvania’s United States Senators Bob Casey and Pat Toomey both serve on the Senate Finance Committee.

The bipartisan Family First Act can become a critical and timely tool to aid states in developing intentional Plans of Safe Care for substance-exposed infants, including those affected by heroin and opioids. The Family First Act can elevate upfront evidence-based interventions to work with intention to prevent young children from having to enter foster care due to parental substance use.

Protecting children and providing critical supports to families is a complex mingling of federal, state and local funding. Generally the federal government puts forth approximately half of the dollars spent annually on child welfare services. In FY 2012, Child Trends reports that \$12.7 billion in federal funding combined with \$10.9 billion in state and \$4.6 billion in local resources.¹⁵ The significant federal funding stream complete with its rigid restrictions on which children funding can be used to protect and support is known as the Title IV-E funding stream. In FY 2012, half (n=\$6.469 billion) of the total federal investment in child welfare services (n=\$12.7 billion) flowed through Title IV-E.

Restrictions on the use of IV-E funding for children identified as at-risk and in-need often ties the hands of the child welfare agency left with too few options or resources to directly work with the family and to keep the child safe at home. Policy makers, families and child advocates have long recognized the contradiction in federal law promoting child safety and family preservation as well as requiring Plans of Safe Care for substance-exposed infants; while severely limiting the permitted use of child welfare funds.

The proposed legislation would create a new subsection - Prevention and Family Services and Programs – to authorize the use of federal funding for up-front, time-limited and evidence-based interventions to keep children safe at home. This contrasts with current practice that in order to access funding through Title IV-E, a child either already has to have been placed in foster care or be at “imminent risk” of such placement.

The bipartisan Family First Act establishes a new dynamic so that there can be earlier access to a menu of evidence-based practices to prevent crisis, promote child safety at home and to support families, including those battling the chronic health condition of addiction.

NAS and Pennsylvania’s Congressional Districts

The data included below was prepared in order to provide some overall understanding of the number of infants born onto Medicaid and diagnosed with NAS by Pennsylvania Congressional district. It is important, however, to underscore that these districts can include the cited county, in whole or in part so this NAS data is ultimately difficult to definitively classify by Congressional district.

¹⁴ <http://thomas.loc.gov/cgi-bin/query/F?r114:1:./temp/~r114Sloxp3:e0>

¹⁵ <http://www.childtrends.org/?publications=an-introduction-to-child-welfare-funding-and-how-states-use-it>

United States Senator Bob Casey, Jr.

CONTACT: https://www.casey.senate.gov/contact						
On Twitter: @SenBobCasey						
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

United States Senator Pat Toomey

CONTACT: http://www.toomey.senate.gov/?p=offices						
On Twitter: @SenToomey						
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Brady - 1st District

CONTACT: https://brady.house.gov/contact-me/email-me						
On Twitter: @RepBrady						
County	2010	2011	2012	2013	2014	Total
Delaware	57	67	68	75	108	375
Philadelphia	160	156	227	223	256	1,022
1st Congressional District	217	223	295	298	364	1,397
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Fattah - 2nd District

CONTACT: https://fattah.house.gov/contact-rep-fattah						
On Twitter: @chakafattah						
County	2010	2011	2012	2013	2014	Total
Montgomery	32	31	41	66	75	245
Philadelphia	160	156	227	223	256	1,022
2nd Congressional District	192	187	268	289	331	1,267
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Kelly - 3rd District

CONTACT: https://kelly.house.gov/contact-me						
On Twitter: @MikeKellyPa						
County	2010	2011	2012	2013	2014	Total
Armstrong	8	14	21	23	19	85
Butler	23	37	23	37	36	156
Clarion	8	2	6	10	8	34
Crawford	4	7	8	24	14	57
Erie	22	29	37	32	43	163
Lawrence	23	47	44	39	38	191
Mercer	7	28	19	26	34	114
3rd Congressional District	95	164	158	191	192	800
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Perry – 4th District

CONTACT: <http://perry.house.gov/contact/>
 On Twitter: @RepScottPerry

County	2010	2011	2012	2013	2014	Total
Adams	6	5	10	12	11	44
Cumberland	7	6	12	9	23	57
Dauphin	11	14	23	18	27	93
York	21	32	32	44	57	186
4th Congressional District	45	57	77	83	118	380
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Thompson – 5th District

CONTACT: <https://thompson.house.gov/contact-me>
 On Twitter: @CongressmanGT

County	2010	2011	2012	2013	2014	Total
Cameron	1	3	6	3	5	18
Centre	3	5	3	4	12	27
Clarion	8	2	6	10	8	34
Clearfield	21	26	32	41	28	148
Clinton	4	3	2	5	4	18
Crawford	4	7	8	24	14	57
Elk	6	8	13	11	19	57
Erie	22	29	37	32	43	163
Forest	0	0	0	0	0	0
Huntingdon	1	3	4	7	5	20
Jefferson	4	4	3	15	8	34
McKean	7	9	8	7	13	44
Potter	1	1	5	0	5	12
Tioga	0	2	3	0	2	7
Venango	13	15	17	24	34	103
Warren	0	2	2	5	8	17
5th Congressional District	95	119	149	188	208	759
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Costello – 6th District

CONTACT: <https://costello.house.gov/contact>
 On Twitter: @RepRyanCostello

County	2010	2011	2012	2013	2014	Total
Berks	25	36	24	47	39	171
Chester	31	20	18	26	22	117
Lehigh	5	5	10	9	24	53
Montgomery	32	31	41	66	75	245
6th Congressional District	93	92	93	148	160	586
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Meehan - 7th District

CONTACT: <https://meehan.house.gov/contact>

On Twitter: @RepMeehan

County	2010	2011	2012	2013	2014	Total
Berks	25	36	24	47	39	171
Chester	31	20	18	26	22	117
Delaware	57	67	68	75	108	375
Lancaster	27	39	41	41	58	206
Montgomery	32	31	41	66	75	245
7th Congressional District	172	193	192	255	302	1,114
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Fitzpatrick - 8th District

CONTACT: <http://fitzpatrick.house.gov/contact>

On Twitter: @RepFitzpatrick

County	2010	2011	2012	2013	2014	Total
Bucks	46	61	67	64	71	309
Montgomery	32	31	41	66	75	245
8th Congressional District	78	92	108	130	146	554
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Shuster - 9th District

CONTACT: <http://shuster.house.gov/contact-bill/>

On Twitter: @RepBillShuster

County	2010	2011	2012	2013	2014	Total
Bedford	0	4	5	4	6	19
Blair	33	32	40	52	42	199
Cambria	37	37	45	46	41	206
Fayette	31	44	56	66	89	286
Franklin	9	15	15	17	20	76
Fulton	0	0	1	3	1	5
Greene	6	10	11	22	23	72
Huntingdon	1	3	4	7	5	20
Indiana	5	4	16	9	10	44
Somerset	8	8	13	11	21	61
Washington	20	30	41	35	51	177
Westmoreland	49	62	71	69	84	335
9th Congressional District	199	249	318	341	393	1,500
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Marino - 10th District

CONTACT: <https://marino.house.gov/contact>

On Twitter: @RepTomMarino

County	2010	2011	2012	2013	2014	Total
Bradford	0	1	4	3	4	12
Juniata	1	0	2	0	0	3
Lackawanna	14	15	16	18	39	102
Lycoming	7	4	3	14	9	37
Mifflin	1	3	7	2	5	18
Monroe	7	7	16	17	19	66
Northumberland	2	3	3	6	7	21
Perry	1	1	10	11	5	28
Pike	2	2	2	4	7	17
Snyder	0	0	0	3	1	4
Sullivan	0	0	0	0	0	0
Susquehanna	1	3	3	1	8	16
Tioga	0	2	3	0	2	7
Union	0	0	0	0	2	2
Wayne	5	6	0	5	9	25
10th Congressional District	41	47	69	84	117	358
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Barletta - 11th District

CONTACT: <https://barletta.house.gov/contact/email-me>

On Twitter: @RepLouBarletta

County	2010	2011	2012	2013	2014	Total
Carbon	5	5	4	3	9	26
Columbia	0	1	7	5	5	18
Cumberland	7	6	12	9	23	57
Dauphin	11	14	23	18	27	93
Luzerne	39	31	39	51	41	201
Montour	0	0	1	1	1	3
Northumberland	2	3	3	6	7	21
Perry	1	1	10	11	5	28
Wyoming	2	3	2	6	2	15
11th Congressional District	67	64	101	110	120	462
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Rothfus - 12th District

CONTACT: <https://rothfus.house.gov/contact>

On Twitter: @KeithRothfus

County	2010	2011	2012	2013	2014	Total
Allegheny	179	192	195	196	222	984
Beaver	17	23	21	34	39	134
Cambria	37	37	45	46	41	206
Lawrence	23	47	44	39	38	191
Somerset	8	8	13	11	21	61
Westmoreland	49	62	71	69	84	335
12th Congressional District	313	369	389	395	445	1,911
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Boyle - 13th District

CONTACT: <https://boyle.house.gov/contact>
 On Twitter: @CongBoyle

County	2010	2011	2012	2013	2014	Total
Montgomery	32	31	41	66	75	245
Philadelphia	160	156	227	223	256	1,022
13th Congressional District	192	187	268	289	331	1,267
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Doyle - 14th District

CONTACT: <https://doyle.house.gov/contact-me>
 On Twitter: @UsRepMikeDoyle

County	2010	2011	2012	2013	2014	Total
Allegheny	179	192	195	196	222	984
Westmoreland	49	62	71	69	84	335
14th Congressional District	228	254	266	265	306	1,319
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Dent - 15th District

CONTACT: <https://dent.house.gov/?p=ContactForm>
 On Twitter: @

County	2010	2011	2012	2013	2014	Total
Berks	25	36	24	47	39	171
Dauphin	11	14	23	18	27	93
Lebanon	2	8	9	15	13	47
Lehigh	5	5	10	9	24	53
Northampton	8	7	6	15	16	52
15th Congressional District	51	70	72	104	119	416
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Pitts - 16th District

CONTACT: <https://pitts.house.gov/contact-me>
 On Twitter: @RepJoePitts

County	2010	2011	2012	2013	2014	Total
Berks	25	36	24	47	39	171
Chester	31	20	18	26	22	117
Lancaster	27	39	41	41	58	206
16th Congressional District	83	95	83	114	119	494
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Cartwright - 17th District

CONTACT: <http://cartwright.house.gov/contact>

On Twitter: @RepCartwright

County	2010	2011	2012	2013	2014	Total
Lackawanna	14	15	16	18	39	102
Luzerne	39	31	39	51	41	201
Northampton	8	7	6	15	16	52
Schuylkill	5	5	9	11	13	43
17th Congressional District	66	58	70	95	109	398
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537

Congressman Murphy - 18th District

CONTACT: <http://murphy.house.gov/contact-me1/>

On Twitter: @RepTimMurphy

County	2010	2011	2012	2013	2014	Total
Allegheny	179	192	195	196	222	984
Greene	6	10	11	22	23	72
Washington	20	30	41	35	51	177
Westmoreland	49	62	71	69	84	335
18th Congressional District	254	294	318	322	380	1,568
Pennsylvania	1,080	1,283	1,502	1,702	1,970	7,537