

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman John Vratil at 9:35 a.m. on March 20, 2003, in Room 123-S of the Capitol.

All members were present except: Senator Donovan

Committee staff present: Mike Heim, Kansas Legislative Research Department  
Lisa Montgomery, Office of the Revisor of Statutes  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Eric Rucker, Chief Deputy Attorney General  
Matt All, Chief Council, Governor's Office  
Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence  
Kyle Smith, Kansas Bureau of Investigation  
Akim Reynolds, Shawnee County Sheriff's Department  
Denise Everhart, Acting Commissioner, Juvenile Justice Authority

Others attending: see attached list

**HB 2391 - Second or subsequent rape, hard 40; prostitution of a minor; endangering the child; aggravated battery on a law enforcement officer**

Chairman Vratil opened the hearing on **HB 2391**. Eric Rucker, Chief Deputy Attorney General, testified in support of **HB 2391**. He said that the bill addresses serious issues by strengthening penalties against sexual predators, protecting Kansas children from exposure to harmful materials, and increasing penalties against those who intentionally seek out and batter our brave law enforcement officers. He stated that Kansas law enforcement agencies have reported 3,210 rapes the last three reporting years, 1999-2001. He spoke on behalf of the Attorney General and said the Attorney General was in support of increasing the severity levels for repeat rape offenders and for aggravated battery offenses against law enforcement personnel. He also supported increasing the penalty for the promotion of prostitution of a minor and adding a violation for the intentional exposing of a child to the sale, distribution, or manufacture of methamphetamines. (Attachment 1)

Committee members discussed and questioned the bed space impact, funding for the increased costs of added beds in 2004, assaulting law enforcement officers not in uniform, and increasing the severity level of the endangering child provision.

Matt All, on behalf of the Governor, testified in support of **HB 2391** as the bill targets some of the worst, most heinous, most insidious crimes in our society and treats them with the seriousness and outrage they deserve. The five bullet point items in his written testimony explained what the bill would do if enacted as outlined by Mr. Rucker. Mr. All stated that there is no room in a free but secure society for repeat sexual offenders, for those who victimize or irresponsibly endanger children, or for those who seek out and inflict violence on law enforcement officers. (Attachment 2)

Sandy Barnett, representing the Kansas Coalition Against Sexual and Domestic Violence (KCSDV), testified in support of **HB 2391** as amended by the House. She addressed the House amendment on pages 3 and 4 of **HB 2391**. On the surface, the notion of knowingly allowing children to be present where there are methamphetamines seems to be a simple proposition, but when we insert serious levels of domestic violence into these scenarios, the issues become far more complex. Ms. Barnett explained that charging a mother in this situation will cause the children to be placed in SRS custody. A conviction will certainly result in the children being in long-term custody of SRS, or possibly put in custody of their manufacturing father if the charge against them does not result in conviction. She said that the House amendment is intended to help protect those for whom safety is not as easy as taking the children and leaving. (Attachment 3)

Kyle Smith, testified in support of **HB 2391** on behalf of the KBI and the Kansas Peace Officers Association. He identified four gaps in current law and outlined them in detail in his written testimony. The gaps were criminalizing aggravated battery of a law enforcement officer, promoting prostitution with

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE on March 20, 2003 in Room 123-S of the Capitol.

a child, intentionally and knowingly exposing children to methamphetamine manufacturing, sales or chemical, and rapists who have a prior conviction for rape. He gave field examples for each of these issues. (Attachment 4)

Akeim Reynolds, Narcotics Investigator for the Shawnee County Sheriff's Department, spoke briefly in favor of **HB 2391**, and shared experiences of battery on law enforcement officers. He addressed the officers in plains clothes problem, and stated that the police need protection within the state's statutes. (no written testimony submitted)

After considerable discussion and questions, the Chair closed the hearing on **HB 2391**.

**HB 2314 - Kansas juvenile correctional complex**

Chairman Vratil opened the hearing on **HB 2314**. Denise Everhart, Acting Commissioner of the Juvenile Justice Authority, testified in support of **HB 2314**. She stated that the purpose of the bill is to establish the statutory structure for the new Kansas Juvenile Correctional Complex and subject the facility to the same statutes, rules and regulations as all other facilities operating under the authority of the Commissioner of Juvenile Justice. She explained that appropriations were made during the 2000 session to build the facility with occupancy planned for fiscal year 2004. (Attachment 5)

There being no other conferees, the Chair closed the hearing on **HB 2314**.

The meeting adjourned at 10:30 a.m. The next scheduled meeting is March 21, 2003.

## SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Thurs, March 20, 2003

NAME	REPRESENTING
Michael White	KCPAA
Kyle Smith	KBI
Bob Jones	KSC
Wicky Johnson	KDOT
Tabell C. McLynek	KBI
Akin Reynolds	Shawnee Co Sheriff's off.
Anna Halchup	visitor
Ashley Gilstrap	visitor
Sandy Barnett	KESDU
Marilynn Ault	KESDU
Juline Masler	Gov. office
Gregory Anderson	Gov. office
MATT ALL	GOV'S OFFICE
Derrick Gontag	AG Office
Eric Tucker	AG Office



State of Kansas

Office of the Attorney General

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PHILL KLINE  
ATTORNEY GENERAL

MAIN PHONE: (785) 296-2215  
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March 20, 2003

To: Senate Judiciary Committee  
From: Chief Deputy Attorney General Eric Rucker

Re: HB 2391

Chairman Vratil and Members of the Committee:

Thank you for the opportunity to address your committee and for your diligent efforts on behalf of the citizens of Kansas.

We must stand together to protect the safety of Kansas children, law enforcement officers and to prevent additional victims of crime. This requires all of us to recognize our common desire for sentences that are appropriate for the gravity of the crime.

The Attorney General is honored to join Governor Sebelius in offering the recommendations contained in HB 2391.

HB 2391 addresses serious issues by strengthening penalties against sexual predators, protecting our children from exposure to harmful materials and increasing penalties against those who intentionally seek out and batter our brave law enforcement officers.

**Second Time Rape Convictions**

Kansas law enforcement agencies have reported 3,210 rapes the last three reporting years, 1999-2001. That equates to one rape in Kansas every 8.18 hours. This is unacceptable.

Next to murder, rape is the most invasive crime in existence. A victim of the act of rape bears physical and emotional scars that are unique in nature. While it is our hope and prayer that through therapy and support, victims can find physical and emotional healing rape inflicts emotional scars that last a lifetime.

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Attachment 1-1



Yet, Kansas law allows rapists to commit their crimes again and again. We should not give rapists, who have repeatedly demonstrated their flagrant disregard for human dignity and lack of respect for the law, an opportunity to create new victims.

Of the 3,210 rapes mentioned above, all but five were perpetrated by criminals 65 and under. Only 14 rapes were perpetrated by rapists between the ages of 60 and 64 and 29 by rapists between the ages of 55 and 59. Accordingly, of all reported rapes in Kansas in the three years from 1999 through 2001, only 1.4% were committed by those over the age of 55.

Current law allows a two time rapist to be out on the street after having served approximately 11 years on the first offense and 18 years on the second offense, if good time credit is applied. This allows a two time convicted rapist to be walking the streets in his middle to late 30's seeking another victim. When it comes to rape, two times is enough strikes to call an out.

### **Battery of an Off-Duty Law Enforcement Officer**

Perhaps no group of individuals deserve more praise for the sacrifices they make, than our law enforcement officers. Day after day, our state, city and county officers lay their lives on the line while protecting our communities. These brave men and women accept this risk knowing that it comes with the job. I know you are mindful of their sacrifice. We often forget, however, the sacrifice of their families - constant concern and fear and under current Kansas law, an incentive for thugs and criminals to perpetrate crimes at the homes of law enforcement officers.

Currently, if an officer is in his or her uniform and suffers an aggravated battery, then the criminal faces a level 3 felony and prison time. If the officer is not in his uniform, however, and even if the criminal is attacking the officer for his work in the line of duty, an aggravated battery is only a level 6 felony resulting in presumptive probation.

Kansas law currently provides criminals the incentive to attack our state's law enforcement personnel at their homes, diminishing the value we place on lives of law officers and placing their families in grave danger. This is wrong.

Furthermore, the dedicated agents of the Kansas Bureau of Investigation do not wear uniforms, yet their work is no less dangerous and no less critical to our state's well-being than the work of other law enforcement officers. Currently, the aggravated battery of a KBI agent is a level 6 felony because they are not in uniform.

The threat of becoming a target does not end upon the completion of a work day. Individuals who intentionally seek out and batter an off-duty law enforcement officer and who have knowledge that the victim is a law enforcement officer, should be penalized in the same manner as if they had committed the crime while the victim was on-duty.

### **Children's Issues**

As the State's chief law enforcement officer, the Attorney General has the responsibility to

ensure that all Kansans are safe. Perhaps the greatest responsibility a society has is to protect its children from harm.

That is why I support increasing the penalty for the promotion of prostitution of a minor and adding a violation for the intentional exposing of a child to the sale, distribution, or manufacture of methamphetamine's.

The bill changes the penalty for promotion of prostitution of a minor from a level 6 to a level 5, person felony. The increase in the severity level reflects our commitment to severely punish those who prey upon our children.

The addition to the Endangering a Child Statute K.S.A. 21-3608, addresses the situation where adults intentionally expose children to toxic chemicals. Children who are exposed to these substances suffer from serious short- and long-term health problems including damage to the brain, liver, kidneys, lungs, eyes and skin. In addition, children who inhabit homes where the production of methamphetamine's exist, often are subject to neglect and abuse, causing the development of emotional and behavioral problems. The exposure of these chemicals to children should not be taken lightly and parents who allow exposure should be subject to severe penalties.

I am aware of situations where one parent may be a victim of domestic abuse and faces a choice of staying in the situation where abuse occurs or departing the home and possibly face even more severe actions. General Kline is sensitive to these cases and worked with the Kansas Coalition Against Sexual and Domestic Violence in finding a remedy that doesn't further endanger the victim of abuse. I greatly appreciate the dedicated efforts of victims' shelters across this state.

I thank you for your time and consideration of this important piece of legislation. I'll stand for questions.

# KANSAS

OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR

*Matt All*

**Senate Judiciary Committee  
March 20, 2003**

Mr. Chairman and members of the Committee:

The most fundamental purpose of government is to ensure the safety of its citizens. I am, therefore, pleased and honored to testify today in support of House Bills 2391. This bill targets some of the worst, most heinous, most insidious crimes in our society and treats them with the seriousness and outrage they deserve. If enacted, this bill will:

- Authorize the doubling of the underlining prison sentence for second and subsequent rapes.
- Raise the severity classification of prostitution of a child from a severity level 6, person felony to a severity level 5, person felony.
- Expand the definition of endangering a child to include knowingly and intentionally causing a child to be present where methamphetamines are being manufactured, sold, or possessed with intent to sell, and reclassifies such endangerment as a severity level 9, person felony.
- Expand the definition of aggravated battery against a law enforcement officer to include violent acts against off-duty officers when the offender knows the victim is a law enforcement officer.
- Clarify the process and order for annual review of a convicted sexual predator's mental condition.

I hope we can all agree that the crimes this bill addresses merit the punishment we ask for here. There is no room in a free but secure society for repeat sexual offenders, for those who victimize or irresponsibly endanger children, or for those who seek out and inflict violence on law enforcement officers.

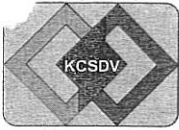
The Governor is pleased with the collaboration her staff has had with the Attorney General's. It is always heartening when Kansans of different backgrounds and viewpoints can come together to protect our citizens, and to make Kansas a safer, better place to live.

Thank you for this opportunity to testify. I hope you will join the Governor and the Attorney General in support of House Bills 2391.

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Attachment 2-1



UNITED AGAINST VIOLENCE

**KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE**

220 SW 33rd Street, Suite 100 Topeka, Kansas 66611  
785-232-9784 • FAX 785-266-1874 • coalition@kcsdv.org

*Sandy Barnett*

**House Bill 2391  
March 20, 2003  
Senate Judiciary Committee**

Chairman Vratil and Members of the Committee:

Thank you for the opportunity to talk with you this morning about KCSDV's support of HB 2391, as amended by the House.

KCSDV also acknowledges and thanks Governor Sebelius and Attorney General Kline for their work on this bill that helps to enhance the safety of communities, families, women, and children.

HB 2391 makes four changes to current statutes:

- 1) Amends K.S.A. 21-3415 to make intentional injury with a vehicle against an off-duty law enforcement officer an aggravated battery.
- 2) Amends K.S.A. 21-3513 to enhance the severity level of promoting prostitution in a child under the age of 16 years old from a level 6 to a level 5 felony.
- 3) Amends K.S.A. 21-3608 to include as child endangerment, knowingly permitting a child to be present where methamphetamines are also present, and elevates the crime in this specific category from a class A misdemeanor to a level 9, person felony.
- 4) Amends K.S.A. 2002 Supp. 21-4704 to enhance the sentence for a second or subsequent conviction for the crime of rape under K.S.A. 21-3502.

Other conferees will address the other provisions of HB 2319, I want to speak to the House Amendment on pages 3 and 4 of HB 2391 (as Amended by House Committee). This amendment was originally requested by KCSDV and after several iterations, supported by both the Governor and Attorney General.

In most cases the methamphetamines user, dealer, or manufacturer is the father, stepfather, or father-substitute of the children. In all likelihood when law enforcement and prosecutors can charge the owner of the methamphetamines with other crimes such as "possession" or "manufacture," they will do so because they carry a higher penalty. This provision of endangering a child is most likely to be used against a mother who appears to be "knowingly" endangering a child by permitting them to be present when methamphetamines are also present.

On the surface the notion of knowingly allowing children to be present where there are methamphetamines seems to be a simple proposition, but when we insert serious levels of domestic violence into these scenarios, the issues become far more complex.

Without this amendment, this section of the bill assumes that mothers must leave their abuser who is using or manufacturing methamphetamines to keep her children safe. Unfortunately, this is not a true assumption. Statistics from the National Institute of Justice, Bureau of Justice Statistics indicate that women and children are more likely to be seriously injured or killed while leaving or during a period of time after leaving an abuser than while residing with that abuser. The greater danger may not be the exposure to methamphetamines, but trying to leave that abusive situation.

Charging a mother who is in this situation will cause the children to be placed in SRS custody, a conviction will certainly result in the children being in long-term custody of SRS. Or, of course, in the most bizarre turn of events in the custody of their manufacturing father if the charge against them does not result in conviction. Again, this seems to be a simple solution on the surface.

By SRS's own statements, "the State is not a good parent." Where it is possible, children are better off with a parent. The better response when we find children and a mother who is abused in a situation where they are exposed to methamphetamines as a course of daily life is to create safety for the mother and children – not arresting the mother and placing children in foster care. Even if we assume that charging the mother to "get her attention" is a worthy goal, we set into motion a series of events that inhibit rather than enhance the chances of successful reintegration of the children with their mother. In this scenario, a felony conviction may prohibit access to jobs and housing. Without the mother's stable employment or being able to provide a home, it is unlikely children will be reintegrated.

KCSDV recognizes the increased difficulties posed by new and more dangerous drugs than we have ever had to cope with. When initially faced with this provision in HB 2319 we engaged in lively debate about whether to oppose this entire provision or ask for an amendment that would articulate some specific discretion in its application. We finally selected the amendment because we too know that in some situations children are unnecessarily and dangerously exposed to methamphetamines. This amendment is intended to help protect those for whom safety is not as easy as taking children and leaving.

Again, thank you for the opportunity to speak with you about HB 2319.

**KCSDV supports HB 2319 as amended by the House.**





## Kansas Bureau of Investigation

Larry Welch  
Director

Phill Kline  
Attorney General

### Testimony in Support of HB 2391 Before the Senate Judiciary Committee

Kyle G. Smith  
Kansas Bureau of Investigation  
Kansas Peace Officers Association  
March 20, 2003

Representative Vratil and Members of the Committee,

I am very pleased to appear on behalf of the KBI and the Kansas Peace Officers Association in support of this legislation. The bill carefully targets four gaps in current law:

#### Summary

**Section 1** fixes gap in the statute **criminalizing aggravated battery of a law enforcement officer**, K.S.A. 21-3415. Currently under the law, the officer has to be "uniformed or properly identified" so it doesn't apply where an officer is attacked out of uniform but by someone who well knows they are an officer, probably because they are an officer. This gap is of particular concern to the KBI and other officers who work in plain clothes. Prosecution would only apply if it could be shown beyond a reasonable doubt that the defendant had actual knowledge of the victim's status as a law enforcement officer. The House committee further amended the bill to add an element of the crime that the aggravated battery took place because of the victim's occupation as a law enforcement officer.

As amended, **section 2** raises the penalty for **promoting prostitution with a child** under 16 years of age, K.S.A. 21-3513, from a level 6 felony (presumptive probation) to a level 5 (border box or presumptive imprisonment). Protecting our children from being used in prostitution and child pornography would seem a reasonable use of prison bed space.

**Section 3** amends the **endangering a child statute**, K.S.A. 21-3608 to create a felony version where a person **intentionally and knowingly exposes children to methamphetamine manufacturing, sales or chemicals**. This has proven to be a growing and tragic result of our methamphetamine manufacturing problem in Kansas.

**Section 4** expands the definition of "persistent sex offender" to include in that special sentencing rule those **rapists who have a prior conviction for rape**. This would increase the sentence to double the current maximum in the grid box on these predators.

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## Discussion

I normally start off my remarks by saying how pleased I am to appear in support of this type of legislation. And I am today, but I wish this committee could hear testimony from the victims in these cases. The rape victims, the children who have been brutalized for profit, the officers who risk their lives to protect us but are then targeted for revenge by criminals or their gangs. But in particular, I wish I could bring in the burned, abused and neglected children that law enforcement officers find in meth labs all across this state. I wish the law would allow me to pass out photographs of these children. I wish I could subpoena the parents before this committee so you could hear them making excuses as to why their addiction to methamphetamine caused them to endanger and injure their children. But, even if I could, that wouldn't give you a complete picture of the damage being done to Kansas children by methamphetamine manufacturing. That is because we don't know what the true picture is. We have no idea what the long term damage is going to be to the youth of this state from exposure to anhydrous ammonia, red phosphorus, hypophosphorous acid, hydriodic acid and the other chemicals that make up the witches brew known as methamphetamine.

These chemicals can severely burn a child's skin before, during or after the manufacturing process. We have found babies crawling on kitchen floors covered with powder and on carpets soaked with chemicals. Used meth chemicals dumped in backyards have burned young children. Frequently, kitchen dishes and utensils are used in the manufacturing process and returned to cabinets to be used for cooking the family meal. Noxious fumes from meth labs can burn children's eyes, nose, mouth and skin. The fumes can damage lungs, cause coughing, chest pain, nausea, headaches, dizziness, vomiting, lack of coordination and even death.

And this is happening in Kansas. A meth lab was seized *in a licensed day care* in Salina. You may remember my testimony where I gave you a briefing on methamphetamine about the incident in southeast Kansas where parents returned to their burning trailer three times to recover glassware and meth laboratory supplies, and only on the third trip rescued their children from the burning trailer. Last year, Kansas law enforcement officials reported finding 120 children at meth labs, 80 of which had been exposed to toxic chemicals. 26 of those children were taken into protective custody. I've attached some sample articles on other cases involving children. Unfortunately, the simple truth is that we need to protect these children from the very people who are supposed to be taking care of them.

And what is the penalty for doing this to children? If a person intentionally caused this injury to another human being, especially a child, they would be charged with aggravated battery, a level 4 to 8 person felony. But, because the intent here is "only" to manufacture drugs and the injury is unintentional, the law, endangering a child, K.S.A. 21-3608, treats this as a class A misdemeanor. Of the top 6 states which have the most meth labs, Kansas is the only one without some form of drug endangered children legislation. We believe that exposing children to these dangers should at least be a felony. This will demonstrate to prosecutors and judges that this is a serious situation that deserves the court's attention. A felony would also hopefully prevent a person convicted of this crime from receiving a daycare license.

I have attached some articles and an excellent brochure put out by the U.S. Department of Justice described "Children at Risk". Please try to make time in your busy schedules to review those materials.

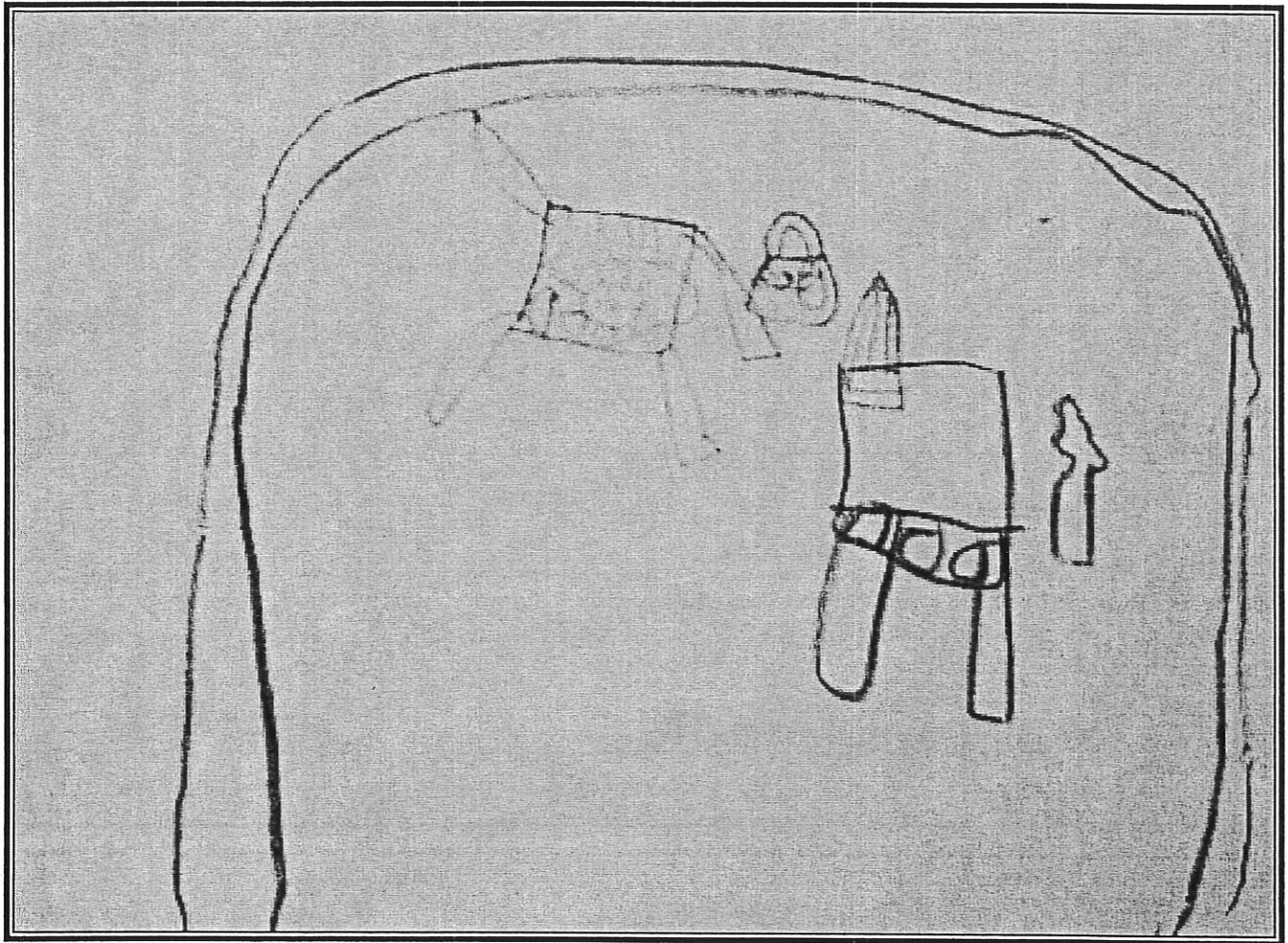
Section 2 of HB 2391 would make such activity a level 9 felony, a presumptive probation felony that should have limited impact on bed space. Obviously, a fair number of persons committing this new crime will also be facing more serious drug manufacturing charges, which will be the controlling sentence. The intent here is not to try to send a person convicted of this crime to prison: We need a felony handle on those mothers to force them into treatment, to force them into counseling so they understand what they have done to their children. The bed impact should be minimal.

The real need for this statute is for parents and custodians who may not be directly involved in manufacturing drugs but allow their children to be exposed to the risks involved. Commonly, we have a male in the house who is the actual meth cook and, while the mother may be addicted, there is little evidence to show that she actually participated in the manufacturing process. Thus, we end up with a situation where the male is arrested and prosecuted for the manufacturing but the mother, who knowingly and intentionally exposed her children to the dangers in meth manufacturing, is not prosecuted 'as it is just a misdemeanor'.

On behalf of the Kansas Peace Officer's Association and the Kansas Bureau of Investigation, and on behalf of the victims, adult and children whom we are sworn to protect, I would urge the committee to pass this legislation out favorably.

I would be happy to stand for questions.

# "Magic Potion"



A 7-year-old girl taken from her Day Care during a methamphetamine lab investigation at that location drew this picture while at the Salina Police Department.

She explained the square at the left is "the fire that we use to make the magic potion," and the cone-shaped vessel on the right is "where you pour it and let it set."





# INFORMATION BULLETIN

JULY 2002

U. S. D E P A R T M E N T O F J U S T I C E

## Children at Risk

### Overview

An increasing number of children in the United States are exposed to toxic chemicals because methamphetamine laboratories are being operated in or near their homes. In addition, these children often are abused or neglected by the parents, guardians, or others who operate these laboratories. The number of children found at seized methamphetamine laboratory sites in the United States more than doubled from 1999 through 2001.



*A 5-year-old boy had to be decontaminated when police found a clandestine methamphetamine laboratory in his Palm Springs home in November 1999. Riverside County Fire Department/California Department of Forestry Capt. Larry Katuls leads the boy, wearing a protective suit, to a police car.*

Methamphetamine laboratory sites typically contain toxic chemicals and waste as well as finished product and drug paraphernalia. Children who inhabit homes where laboratories are present often inhale dangerous chemical fumes or gases or ingest toxic chemicals or illicit drugs. Exposure to these substances can cause serious short- and long-term health problems including damage to the brain, liver, kidneys, lungs, eyes, and skin. Children whose parents or guardians produce or abuse methamphetamine also are likely to develop emotional and behavioral problems stemming from abuse or neglect. In addition, inhaling or ingesting toxic substances such as those present at methamphetamine laboratories may cause cancer or death.

Few areas of the country have programs in place to coordinate the social and legal aspects of cases involving children at methamphetamine laboratories; however, implementation of an effective program is possible, as illustrated by the Drug Endangered Children (DEC) program in California.

### Rates of Exposure

Most, if not all, of the children present at methamphetamine laboratories are exposed to dangerous chemicals including precursor chemicals, reagents used to convert precursor chemicals into methamphetamine, solvents, and the drug itself. The number of children present at seized methamphetamine laboratory sites increased

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from 950 in 1999 to 2,028 in 2001, according to the Drug Enforcement Administration (DEA) El Paso Intelligence Center (EPIC) National Clandestine Laboratory Seizure System as of May 15, 2002. In 2001 approximately 35 percent (700) of the 2,028 children found at methamphetamine laboratory sites tested positive for toxic levels of chemicals in their bodies. (See Table 1.) In 2001 the states reporting the highest number of children present at methamphetamine laboratories were California (503), Washington (326), Oregon (241), and Missouri (161). These figures are recognized as underreported because many states do not keep records on children present at laboratory sites or medically evaluate them for the presence of drugs or chemicals.

**Table 1. Children at Methamphetamine Laboratories**

	Present at Seized Laboratories	Tested Positive for Toxic Levels of Chemicals
1999	950	150
2000	1,748	340
2001	2,028	700

Source: DEA EPIC National Clandestine Laboratory Seizure System.

## Effects of Exposure

Chemicals used in methamphetamine production are extremely hazardous (see Table 2 on page 3). The risk of exposure to toxic chemicals at laboratory sites may be much greater for children than for adults. Young children, unlike adults, engage in behavior that can lead to increased incidents of exposure such as placing their hands and objects in their mouths and playing on floors, tabletops, and countertops or outdoors in the dirt. Producers who operate laboratories in or near residences often produce methamphetamine using common household items including kitchen utensils, dishes, appliances, sheets, and other linens. These items may become contaminated and then fall into the hands of unsuspecting children. Toxic chemicals also frequently are discarded outdoors near areas where children play. For example, in April 2002 a methamphetamine laboratory was discovered in the bedroom of a 1-year-old child in Deville,

Louisiana. According to officers from the Deville Police Department, the child was found moving about the home in a walker at the time of the raid. The infant’s parents were charged with multiple drug-related crimes as well as child desertion, which includes negligent exposure of a child younger than 10 to dangerous or hazardous situations. Local authorities took custody of the child.

The physical effects resulting from exposure to the toxic chemicals present at methamphetamine laboratories vary based on the manner in which the chemicals are introduced into the body. Children at methamphetamine laboratories may absorb chemicals into their bodies via ingestion, inhalation, skin contact, or accidental injection.

Although exposure most frequently results from inhalation or through contact with the skin, ingestion poses the greatest risk to a child’s health. Children may ingest toxic chemicals by eating or drinking contaminated food or beverages—which may be prepared using the same kitchen utensils and appliances used for methamphetamine production—or by placing a contaminated object into their mouths. Children also have consumed various forms of methamphetamine. Ingesting toxic chemicals or methamphetamine may result in potentially fatal poisoning, internal chemical burns, damage to organ function and development, and harm and inhibition to neurological and immunologic development and functioning.

## Long-Term Risks to Children

A child’s developing brain and other organs are more susceptible to damage at specific maturational levels, and children may be less able to process and eliminate chemicals than adults. A child exposed to toxic chemicals may develop acute or chronic diseases such as cancer and organ damage. In addition, children who have lived in a home where methamphetamine was produced often exhibit emotional and behavioral problems that may persist indefinitely.

Source: Drug Endangered Children Program.

Inhaling chemical vapors and gases resulting from the methamphetamine production process causes shortness of breath, cough, and chest pain. Exposure to these vapors and gases may also cause intoxication, dizziness, nausea, disorientation, lack of coordination, pulmonary edema, chemical pneumonitis, and other serious respiratory problems when absorbed into the body through the lungs.

The chemicals used to produce methamphetamine may cause serious burns if they come into contact with the skin. Chemicals often are spilled onto surfaces within the household where methamphetamine laboratories are operating, and sometimes the chemicals are spilled directly onto children present in these areas.

Many methamphetamine producers also abuse the drug, sometimes via injection. This increases the risk of a child's being injected accidentally with methamphetamine or other drugs when needles and drug paraphernalia are left within a child's reach. Contact with contaminated needles also can expose children to infectious diseases such as HIV and hepatitis.

Children at methamphetamine laboratories are at risk for other injuries as well. Some chemicals used in methamphetamine production are highly volatile and may ignite or explode if mixed or stored improperly. For example, in February 2001 Catoosa County, Georgia, authorities responded to a fire and explosion in a home. An 11-month-old

**Table 2. Hazardous Chemicals Used in Methamphetamine Production**

Chemical	Hazards
Pseudoephedrine	Ingestion of doses greater than 240 mg causes hypertension, arrhythmia, anxiety, dizziness, and vomiting. Ingestion of doses greater than 600 mg can lead to renal failure and seizures.
Acetone/Ethyl Alcohol	Extremely flammable, posing a fire risk in and around the laboratory. Inhalation or ingestion of these solvents causes severe gastric irritation, narcosis, or coma.
Freon	Inhalation can cause sudden cardiac death or severe lung damage. It is corrosive if ingested.
Anhydrous Ammonia	A colorless gas with a pungent, suffocating odor. Inhalation causes edema of the respiratory tract and asphyxia. Contact with vapors damages eyes and mucous membranes.
Red Phosphorus	May explode on contact or friction. Ignites if heated above 260°F. Vapor from ignited phosphorus severely irritates the nose, throat, lungs, and eyes.
Hypophosphorous Acid	Extremely dangerous substitute for red phosphorus. If overheated, deadly phosphine gas is released. Poses a serious fire and explosion hazard.
Lithium Metal	Extremely caustic to all body tissues. Reacts violently with water and poses a fire or explosion hazard.
Hydriodic Acid	A corrosive acid with vapors that are irritating to the respiratory system, eyes, and skin. If ingested, causes severe internal irritation and damage that may cause death.
Iodine Crystals	Give off vapor that is irritating to the respiratory system and eyes. Solid form irritates the eyes and may burn skin. If ingested, causes severe internal damage.
Phenylpropanolamine	Ingestion of doses greater than 75 mg causes hypertension, arrhythmia, anxiety, and dizziness. Quantities greater than 300 mg can lead to renal failure, seizures, stroke, and death.

Source: DEA Office of Diversion Control.

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infant was rushed to the hospital in critical condition with burns and other injuries. The infant passed away after several months. The parents, who were fugitives, were captured in July 2001 while attempting to purchase precursor chemicals.

## **Related Abuse and Neglect**

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Methamphetamine producers and abusers typically become so preoccupied with the drug that they abuse or neglect their children. According to Inland Narcotics Clearing House data, nearly 70 percent of the child abuse cases reported in Riverside and San Bernardino Counties, California, during 2001 were methamphetamine-related. Children whose parents or guardians produce or abuse methamphetamine typically lack proper immunizations, medical care, dental care, and necessities such as food, water, and shelter. For example, in March 2002 Los Angeles County Sheriff's deputies found four children who were begging for food in their neighborhood in Diamond Bar, California. The deputies found that the children had been left alone in their home, which had no food, water, or electricity. The children led the deputies to a methamphetamine laboratory in the family's garage. The children frequently were present at the laboratory because they were being homeschooled in the same garage.

## **Strategies to Assist Children at Risk**

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Law enforcement authorities, prosecutors, social workers, medical professionals, and hazardous materials cleanup crews are increasingly aware of the serious risks faced by children who are present at methamphetamine laboratories. However, many communities have not yet implemented strategies that allow legal, social, and medical professionals to combine their resources effectively and break the cycle of child endangerment.

Butte County, California, developed a collaborative effort to improve the safety and health

of children endangered by drug production, distribution, and abuse in 1993 when it initiated the Drug Endangered Children (DEC) program. DEC brings together law enforcement officers, social workers, public health nurses, and district attorneys in a cooperative effort to remove children from homes where methamphetamine is produced and to safeguard the children from further abuse and neglect.

The DEC program is a model by which many agencies can learn how to best address the legal, medical, and social issues associated with children present at methamphetamine laboratories and other hazardous drug production and abuse environments. A key component of the DEC program is a response team that is on call 24 hours a day. The DEC Response Team—which includes social

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### **Four-Year-Old Child Found at Methamphetamine Production Site**

In March 2000 narcotics task force officers and a DEC social worker in Butte County discovered a methamphetamine laboratory at a residence while conducting a probation search. Upon arrival, they discovered a 4-year-old girl, naked, playing outdoors beside laboratory waste and a dead cat. It was discovered that her mother had been producing methamphetamine in a travel trailer located on the property. The child drew pictures and spoke clearly about a glass smoking pipe and numerous incidents of domestic violence she had witnessed in the home. The mother was arrested for manufacturing methamphetamine, maintaining a residence to manufacture, being armed in commission of a felony, and child endangerment. The child was taken to a local hospital for lab work and a physical exam where toxicology screens were positive for methamphetamine and other illicit drugs. She was infested with head lice and was suffering from infections in both ears, which required immediate medical attention. The child, who was developmentally delayed, was placed in a foster home that deals specifically with drug exposed, at-risk children.

Source: DEC.

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workers, trained fire department personnel (members of the hazardous materials unit, in particular), public health nurses, and law enforcement personnel—is called upon frequently to treat and care for children found at laboratory sites and assist with the criminal investigation. The entire DEC Response Team receives specialized training regarding methamphetamine production and the circumstances specific to drug endangered children, and all personnel have experience or receive training in criminal investigations related to evidence collection in child endangerment cases.

In Butte County, California, where the DEC program was informally developed in 1993, the team has removed 80 to 100 children from drug-related endangerment situations each year since its inception and has successfully prosecuted hundreds of cases of child endangerment. Other counties in California have had similar success, and nine other states (Washington, Oregon, Idaho, Nevada, Utah, Arizona, Oklahoma, Missouri, and Illinois) have begun to replicate DEC Response Teams in their local communities. In Riverside County the DEC program was officially begun in 1999. During the initial 18 months, 33 methamphetamine laboratories were seized where children were present. Eighty-three children were taken into custody, and felony charges were filed against 75 individuals. In Orange County the DEC team has coordinated the removal of children from methamphetamine laboratories and has assisted the Orange County District Attorney's Office with charging their parents with felony child endangerment.

Due to the success of the program in California where it is now operating in 15 counties, the National Methamphetamine Chemical Initiative (NMCI) will fund the travel of DEC instructors to other states interested in starting a program. (See DEC Points of Contact on page 6.)

## **Outlook**

The number of children present at methamphetamine laboratories, which more than doubled from 1999 through 2001, is expected to continue to increase at an even higher rate. As the number of children present at methamphetamine laboratories increases, more will suffer the physical and psychological effects associated with exposure to dangerous chemicals, and the number of related abuse and neglect cases will increase. Law enforcement agencies, medical personnel, and social workers will continue to be challenged to develop innovative solutions such as the DEC program to address this problem.

## **DEC Points of Contact**

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## **Sources**

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### *Associated Press*

Catoosa County, Georgia, Sheriff's Office

Columbia University

National Center on Addiction and Substance Abuse

Department of Justice

Drug Enforcement Administration

El Paso Intelligence Center

National Clandestine Laboratory Seizure System

Deville, Louisiana, Police Department

Drug Endangered Children Program

Inland Narcotics Clearing House (CA)

Los Angeles County Sheriff's Office

*Los Angeles Times*

4-10



4-11

1 (2) Promoting prostitution when the prostitute is 16 or more years of  
 2 age is a severity level 7, person felony if committed by a person who has,  
 3 prior to the commission of the crime, been convicted of promoting  
 4 prostitution.

5 (3) Promoting prostitution is a severity level 6 5, person felony when  
 6 the prostitute is under 16 years of age.

7 Sec. 4. K.S.A. 21-3608 is hereby amended to read as follows: 21-  
 8 3608. (a) Endangering a child is:

9 (1) Intentionally and unreasonably causing or permitting a child un-  
 10 der the age of 18 years to be placed in a situation in which the child's  
 11 life, body or health may be injured or endangered; or

12 (2) knowingly and intentionally causing or permitting a child under  
 13 the age of 18 years to be present where:

14 (A) A person is selling, offering for sale or having in such person's  
 15 possession with intent to sell, deliver or distribute; prescribe; administer;  
 16 deliver; distribute; dispense; compound; unlawfully manufacturing; or at-  
 17 tempt to unlawfully manufacture any methamphetamine as defined by  
 18 subsections (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto;  
 19 or

20 (B) drug paraphernalia or volatile, toxic or flammable chemicals are  
 21 stored for the purpose of unlawfully manufacturing or attempting to un-  
 22 lawfully manufacture any methamphetamine as defined by subsections  
 23 (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto.

24 (b) Nothing in this section shall be construed to mean a child is en-  
 25 dangered for the sole reason the child's parent or guardian, in good faith,  
 26 selects and depends upon spiritual means alone through prayer, in ac-  
 27 cordance with the tenets and practice of a recognized church or religious  
 28 denomination, for the treatment or cure of disease or remedial care of  
 29 such child.

30 (c) Endangering a child as described in subsection (a)(1) is a class A  
 31 person misdemeanor. Endangering a child as described in subsection  
 32 (a)(2) is a severity level 9, person felony.

33 (d) As used in this section, "manufacture" shall have the meaning  
 34 ascribed to that term in K.S.A. 65-4101, and amendments thereto, and  
 35 "drug paraphernalia" shall have the meaning ascribed to that term in  
 36 K.S.A. 65-4150, and amendments thereto.

37 Sec. 5. K.S.A. 2002 Supp. 21-4635 is hereby amended to read as  
 38 follows: 21-4635. (a) Except as provided in K.S.A. 21-4634 and amend-  
 39 ments thereto, if a defendant is convicted of:

40 (1) The crime of capital murder and a sentence of death is not im-  
 41 posed, or if a defendant is convicted of murder in the first degree based  
 42 upon the finding of premeditated murder, the court shall determine  
 43 whether the defendant shall be required to serve a mandatory term of

# Denver Post

## Methamphetamine's young victims Homes doubling as drug labs pose serious dangers to kids

By Amy Herdy  
Denver Post Staff Writer

**Sunday, October 20, 2002** - Outside the yellow police tape that surrounds her grandma's house, 4-year-old Kayla holds court.

Freshly scrubbed, she sports clothes plucked out of police supply: red sweat pants, a white Winnie-the-Pooh T-shirt and small canvas shoes painted with fruit.

As she chatters with strangers, Kayla offers a disturbing glimpse of her world.

"Does anyone smoke at your house?" Thornton police Lt. Lori Moriarty asks.

"Mom and Grandma," replies the Adams County girl with deep brown eyes and wavy hair. "They smoke weed and cigarettes."

And sometimes Grandma cooks in the bathroom, black and brown stuff that goes into a pipe, Kayla tells Moriarty. "She cooks and then she smokes it."

Moriarty sighs, hoists the girl to her right hip - her 9mm Smith & Wesson rests on the left - and plans to have Kayla become a belated first in Colorado: a child tested for exposure to methamphetamine and the toxic chemicals used to manufacture it.

For years, law enforcement officials say, Colorado has been developing a serious methamphetamine problem, yet only recently has any focus been given to the children who live in these homes.

Until this month, there was no protocol in Colorado for what to do with a child found in a home with a meth lab, despite the fact that drug task forces across the state are funded by a federal grant that requires it. Children were not interviewed or medically evaluated. Often, they were placed with relatives and then allowed to go back into the home.

Modeled after a program begun in 1993 in California called Drug Endangered Children, Moriarty and Dr. Kathryn Wells of the Kempe Children's Center in Denver have begun to develop a local protocol. Still a work in progress, it begins with removing children from the home, decontaminating them by bathing them head to toe and dressing them in new clothes, and having them thoroughly medically evaluated. The children are also interviewed to determine any physical, emotional or sexual abuse.

A highly addictive stimulant, methamphetamine can cause confusion, anxiety, paranoia and violence. Children who live in homes with users of the drug are at risk for neglect and abuse, officials say, in addition to the risks posed by exposure to the drug itself and its manufacturing process.

"I would venture to say, we've had kids who have been seriously injured or died and we didn't recognize it as being linked to their parents' drug abuse," Wells said. "And that's a real problem."

The numbers of children at risk are sketchy. Due to sporadic reporting across the state, different agencies give different statistics for how many methamphetamine labs are seized in Colorado, and the number of those where children were present.

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'A lot of gaps'

Ten days ago, playing on the police-issued purple and white floral blanket spread on a sidewalk near her grandma's home, Kayla offered a story of a child often left to fend for herself.

She does not go to preschool, Kayla told Moriarty, and except for the nice firefighter who washed her this morning, does not remember the last time she had a bath.

Breakfast? She got it herself: vanilla ice cream and cold macaroni and cheese.

Lots of people visit Grandma, who keeps a gun that is bigger than the silver one Daddy has.

"There's no question these kids are at risk," Moriarty said. "They are in danger of explosions, fires, burns, weapons and the other elements you find in a typical meth home."

And Colorado law, officials say, is weak when it comes to prosecuting parents who put their children at risk by exposing them to meth. Under current law, a child has to be seriously injured or killed before a parent can face felony child abuse charges.

"There are a lot of gaps," said Tom Gorman, director of the local High Intensity Drug Trafficking Area in Denver.

Estimates vary among police agencies on the number of labs seized, but Gorman put it at 336 statewide in 2000. In 2001, the number jumped to 452.

"The vast majority have evidence of children living in the home," he said. Whether any of those children have been injured or killed from the dangers of living in a meth home is impossible to measure, he said, because no one has been tracking them and paramedics and other first responders have not been trained to recognize the signs.

#### Raising awareness

Colorado's meth problem has begun to mirror that of other states, such as Arizona, Washington, Utah and California, Gorman said, states that have had horrible cases of child injuries and deaths related to the drug.

"We don't want that to be the trigger here in Colorado," said Gorman, who noted that two adults died from a methamphetamine-related explosion in Denver in January. "We want to get a handle on meth before that happens."

During their raid of her grandma's house, police found methamphetamine on the headboard where Kayla slept. They also found two gallons of muriatic acid on the floor of the garage, beakers, bottles, pipes and other evidence of manufacturing.

In other states, such as California, merely the presence of such a lab could result in felony child abuse charges. In Colorado, such exposure is only a misdemeanor.

"We need stiffer penalties," Moriarty said, and more statewide education about the dire domino effects of methamphetamine.

Toward that end, a consortium of law enforcement, physicians, district attorneys, judges, social workers, paramedics and others are scheduled to meet Friday at the Douglas County Fairgrounds.

4-13

Moriarty hopes the conference will raise awareness of the methamphetamine problem in Colorado and its effect on children.

A bust on a chilly April day

It is an issue she has passionately embraced since a chilly day in April, when SWAT team members emerged from a meth lab home on Hudson Street in Thornton, gingerly carrying a diaper-clad 14-month-old boy.

Moriarty, who was on scene, remembers looking at the toddler and thinking, "What are we going to do with him?"

In addition to methamphetamine, police found propane fuel, acetone, alcohol, toluene, hydrochloric acid, funnels, a propane torch and several glass pipes in the home.

A diaper bag found in the toddler's room held tubing, Red Devil lye, chemistry flasks, funnels, iodine and bottles of acid.

The boy's father, Keith Strickland, 25, had dropped his son off at the home that morning for a court-ordered visit with the boy's mother, 26-year-old Heather Campbell.

Social services took custody of the toddler, Brandon, releasing him to his father later that night.

"I said, 'Is he OK?' They were like, 'We can't tell you that,'" Strickland, a machinist, said.

"They said they had a physician check him out for a moment, and nothing was wrong."

In the car on the way home, he said, the toddler shook his finger at his father.

"He said, 'Bad, bad, bad da-da!' I said, 'Whoa, buddy, I'm sorry.' I'll kick myself for the rest of my life for dropping you off," said Strickland, who says he never would have allowed the visit had he seen signs of drugs. He estimates that his son visited Campbell at the home about a half-dozen times, once overnight.

Concerned, Strickland said he took Brandon to a pediatrician the next day, and the boy was given a clean bill of health. So far, he said, his son appears to be healthy, although at times Brandon awakes at night, shaking, sweating from head to toe and crying.

Until a reporter talked to him, Strickland did not know about the contents of the clandestine drug lab in the home his son had visited. No one in social services or law enforcement had told him, he said.

Campbell, the boy's mother, was charged with felony counts of manufacturing and possession of methamphetamine, as well as misdemeanor child abuse. She was sentenced in August to 30 days in jail, two years' probation and community service.

Outside the courtroom, Campbell's 21-year-old boyfriend, Jared Herman, said her punishment was unfair.

"She was doing it because I was doing it," he said of Campbell's meth use, "trying to make me love her."

Brandon was never in danger, Herman said. "When he'd come around, we'd stop using."

4-14

In an interview from jail last month, Campbell told The Denver Post her addiction to methamphetamine took over her life.

She began using it in February, shortly after moving into the house where six other people, including Herman, lived.

At first she resisted smoking meth, she said, but everyone would "pass the pipe around, and only so many times can you say no."

As her addiction grew, Campbell's weight dropped to 112 pounds on her 5-foot-11 frame.

"I couldn't sleep for days, couldn't eat. I would smoke weed to get high," said Campbell, adding that she is now drug-free.

"I wasn't paying enough attention to the baby. ... When I did meth, the baby would go downstairs."

Others cooked meth in the home, she said.

"Jared would bring down the pills, and put them in a glass bottle and heat two layers of liquid. Then (someone else) would cook it in the microwave - cook it and scrape it."

As for her son, "I'm sure he was there a couple of times while they were doing it (cooking meth). I feel like (expletive deleted) about that."

Strangers often trooped in and out of the house, she said, buying drugs.

"I got to know some of them. Jared hit somebody once, he was flicking my ear while I was sleeping," she said.

Soon, she said, she and Herman stopped leaving their room.

"I threatened to kill myself every day. I said it a lot to get to him."

Then, Campbell said, she thought of a way to get Herman to notice her.

"I was in dire need of his love, so I went out and stole large boxes of pills, Sudafed, so (they) could make more meth," Campbell said.

That was the day before the raid.

The next morning, Campbell said, she decided to flush her share of meth down the toilet. As she stood up, Herman moved to stop her, she said, and at that moment they saw the police.

"That was my wake-up call," she said of the raid.

Stories echo across state

Across the state, narcotics investigators have their own anecdotes of children found in meth homes.

In Lafayette, there is the case of the men videotaping their home-cooking of the drug, the video showing a baby in a nearby high chair and a toddler running around the room.

There is the 12-year-old Montrose County boy who lived in the front of the house where his father

4-15



and uncle produced meth.

Or the case in Craig where officers had to shoot and kill three pit bulls who attacked them during a search of a home with a suspected methamphetamine lab. Although 44 grams of the drug was found, along with pipes, scales and a collection of guns and knives, none of the three young children in the home were tested for drug exposure or interviewed by police for potential abuse or neglect.

National experts say the system needs to change.

"We worry about kids who don't eat breakfast, what about kids who are exposed to hydrochloric acid every day before school?" said Laura Birkmeyer of San Diego, director of the National Methamphetamine Chemicals Initiative.

"If children are being cared for by heavy meth users, those caregivers have poor judgment, are sleep-deprived, can be paranoid and turn violent," Birkmeyer said.

"And many kids test positive for meth when taken from a meth home because they breathe it, eat it and get cross-contamination of food."

So far, there are no studies of the long-term effects of methamphetamine exposure in children, Birkmeyer said.

In her jail interview, Campbell said she hoped her son would have a better life.

"I don't want him to be like I am," she said. "I don't want him to go through what I went through."

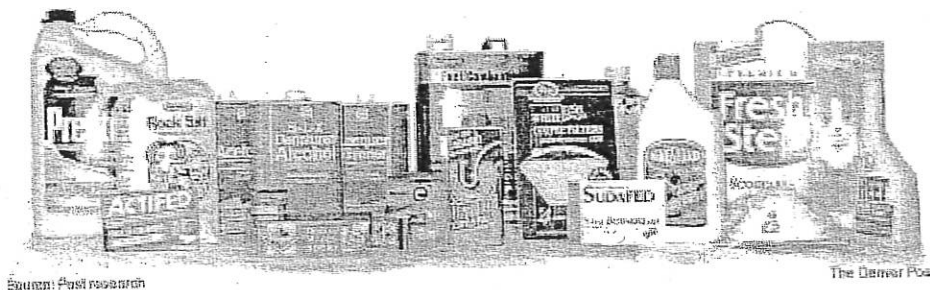
Now out on probation, Campbell called The Denver Post last week.

She just learned that police have issued a warrant for her boyfriend's arrest, she said, for charges of possession and manufacturing of methamphetamine, as well as misdemeanor charges of child abuse, in relation to the raid on their Thornton home in April.

She is worried, she said, in part because she is pregnant with his child.

### The hazards of meth

Even though children may not ingest methamphetamine, the chemicals used to make the drug can be deadly to them. Spills of chemicals can cause burns, and vapors can lead to serious respiratory problems and pulmonary edema. In addition, some of the chemicals are highly volatile and can explode. Here are some of the common household products used in making methamphetamine.



Source: Post research

The Denver Post

4-16

# Child found in home with alleged meth lab

Following medical evaluation, girl is released to her natural mother

By **JOE NOGA**  
Morning Sun Staff Writer

A young girl was found in a Pittsburg home where law officers also reportedly found chemicals used to make methamphetamine.

At 4:25 p.m. Sunday, Pittsburg police were dispatched to 213 W. 20th St. on a report of a domestic argument between a man and a woman inside the home.

While investigating the domestic argument, officer's noticed a chemical smell permeating from inside the residence. When the officers finished probing the domestic dispute, the chemical smell was strong enough to cause police to investigate the source of the odor. An initial investigation revealed that the remnants of an alleged working meth lab.

Officer's cleared three adults and the child from the house and obtained a search warrant.

Arrested at the scene was Jeffery R. Montanelli. Montanelli was booked into the county jail at 11:46 p.m. on Feb. 9 for possession of pseudoephedrine, no drug tax stamp, felony possession of paraphernalia, manufacturing methamphetamine, possession of methamphetamine and child endangerment. Montanelli remains in custody in lieu of \$64,000 bond.

The girl was taken into police custody as a child in need of care and taken to Mt. Carmel Regional Medical Center for evaluation.

"In this situation, because the child was exposed to chemicals, generally speaking we take them out to the hospital for evaluation just as a precautionary measure," said Deputy Chief Mendy Hulvey. "If the doctors deem it necessary they will actually do chemical testing on the child. We really don't know what the long term effects of exposure to these chemicals is on children. This is definitely a concern, a growing concern."

After her evaluation, the child was released to her natural mother, who was neither present in the house nor involved in the alleged drug incident.

The Kansas Bureau of Investigation, the Southeast Kansas Drug Task Force, the Pittsburg Fire Department and Crawford County EMS also responded to the incident.

The investigation is ongoing and further charges may be levied.

Staff Writer Joe Noga can be reached at jnoga@morningsun.net or at 231-2600, Ext. 132.

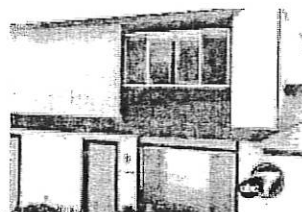
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## Four Children Found Hungry Lead to Meth Lab Bust



This home in Diamond Bar is where authorities found four children left by themselves. The mother was in the hospital having a baby. Authorities also found another surprise, a meth lab.

DIAMOND BAR — Four hungry children looking for food lead deputies to the discovery of a methamphetamine lab in Diamond Bar.

Someone called authorities about the children, apparently after the four children went door-to-door asking for food. Sheriff's deputies were sent to find out what was going on. They learned that their mother was in a hospital giving birth, according to Agent Shirley Lessiak of the state Department of Justice.

The deputies also discovered a meth lab in the garage of the family's home at 2357 Canyon Park Drive, she said.

Two boys, 13 and 14, and two girls, 3 and 6, were placed in the protective custody of the county, Lessiak said.

The mother, whose name was unavailable, will be booked on suspicion of manufacturing a controlled substance and child endangerment, Lessiak said, adding that she was at a hospital with her baby tonight.

A search warrant served about 6 p.m. confirmed that the home contained such meth-making materials as pseudoephedrine, acetone, muriatic acid, Drano, red phosphorous and glassware, she said.

The children had access to the garage, the heart of the operation, Lessiak said. A county hazardous-materials team was at the scene tonight to dismantle the operation, she said.

Last Updated: Mar 22, 2002

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**Carthage man charged in  
son's death**

**Police say baby ingested leftovers  
from meth 'cook'**

**By Jeff Lehr**

**Globe Staff Writer**

CARTHAGE, Mo. — When his parents, Dennis and Maranda Doubet, took him to the emergency room at McCune-Brooks Hospital in Carthage on Sept. 23, 11-month-old Zarrin Doubet reportedly was foaming at the mouth and reeking of fuel.

The father said his son apparently had choked on something.

While doctors and nurses worked feverishly to save the boy, police were called.

The father left the hospital on foot just as officers were arriving — and as Zarrin was dying — raising the suspicions of authorities.

Carthage detectives went to the Doubets' home at 418 Clevenger St., just a few blocks from the hospital, to retrieve the boy's father for death notification purposes. Police said that when they eventually obtained consent to search the home that day for evidence of a cause of death, they found a partially filled can of Coleman camp fuel, empty bottles of acetone and Heet, iodine-stained filters and paper, a used syringe, boxes of matches with their strike plates scraped clean of phosphorus, and a single-burner stove.

They began to suspect the child had died from ingestion of leftover fuel from a methamphetamine "cook." The Missouri Division of Family Services was called and took custody of the Doubets' two other children, one of school age and the other a preschooler.

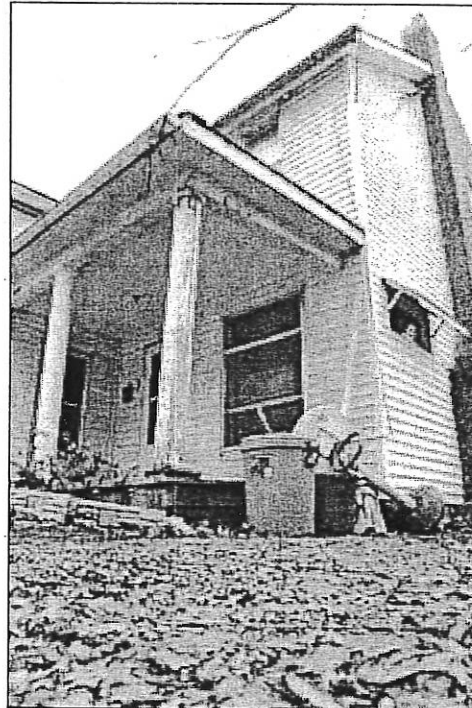
But no charges were filed against either parent, pending an autopsy and toxicology tests.

Those test results came back this week, and Dennis D. Doubet, 33, was arrested Wednesday night and charged with second-degree murder and creation of a controlled substance. He has posted \$25,000 bond and been released.

"This clearly was a tragic event," Carthage Police Chief Dennis Veach said at a news conference called Thursday to announce the results of the three-month investigation.

He said authorities believe it is the first known instance in Southwest Missouri, if not the entire state, of a child dying from ingestion of chemicals used to make methamphetamine. He called it a case "that has raised the bar on the meth problem" in the region.

"It's way past a wake-up call," Veach said.



Globe/T. Rob Brown

**A house at 418 Clevenger St. in Carthage, where an 11-month-old boy is believed to have ingested leftover fuel from a meth-making operation on Sept. 23, is now vacant. The child died that day at a Carthage hospital.**

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"If you're parents, and you're doing drugs, and you're cooking drugs in the house, you're not good parents."

Jasper County Coroner Ron Mosbaugh said the toxicology tests showed Zarrin died from ingestion of Coleman fuel and other substances mixed in with the fuel. The deadly mix, which caused hemorrhaging and massive congestion in his lungs, was found in the boy's stomach contents and brain tissue, Mosbaugh said.

Camp fuel is commonly used to help separate the final product when methamphetamine is cooked.

Dean Dankelson, county prosecutor, said the father will be prosecuted under Missouri's felony murder rule. The law permits a defendant to be prosecuted for second-degree murder if someone dies during the defendant's commission of another felony crime. In this case, Dankelson said, Doubet is accused of felony manufacturing of a controlled substance that led to the death of his son.

Second-degree murder carries possible sentences of 10 to 30 years in prison or life in prison, the prosecutor said.

Maranda Doubet has not been charged with a crime. Dankelson and Veach declined to discuss why one parent would be charged and not the other.

"The mother has not been charged," Veach said. "That's all I'm going to say on that."

He said police searched the couple's home and other buildings, not only the day of Zarrin's death, but also the next day and two days after. He said the couple's garage and two abandoned buildings on other people's property were searched in connection with the investigation.

"The searches of the residence and other buildings in the area confirmed that methamphetamine activity had been occurring at the residence for some time," Veach said.

He said the searches turned up evidence of a meth-making operation in an upstairs bedroom of the home.

The coroner had said in September that the father told authorities he was in the living room and his son was in the kitchen when he heard the boy making strange noises. Mosbaugh said the father told authorities that he believed the boy had choked on something.

Dennis and Maranda Doubet could not be reached for comment Thursday.

Police said Doubet was unemployed at the time of his son's death but currently works at a Carthage factory.

Veach said the father had some "minor" scrapes with the law in the past, and that officers had received some "limited information" about activities at the couple's home several years ago. But nothing was ever confirmed, he said.

The couple no longer reside at the Clevenger Street address. A sign on the door Thursday indicated that they may have moved to a home on Cedar Street, but no one answered the door at that address either.

Brian Doubet, a brother of the defendant, told the Globe that police are trying to make his brother a scapegoat.

"If you knew him as well as I do, you'd know he would never hurt his child," Brian Doubet said.

He declined to discuss any details of the case.

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## Drug Labs and Endangered Children

by Tom Manning, J.D.

Drugs, guns, and money - the usual seizures by law enforcement officers during a raid on a suspected methamphetamine producer - are being joined by a new and, sadly, ever-increasing [victims-kids.html](#)

[victims-kids.html](#) phenomenon, the children left behind when officers arrest their parents for illegally manufacturing or using this drug. More often than not, officers end up changing dirty diapers, comforting screaming babies, and entertaining these children for hours.

Officers in San Diego, California, understand this scenario all too well. Because of the high rate of methamphetamine use and production, San Diego held the title of the Methamphetamine Capital for several years. From 1988 to 1995, county-funded drug treatment programs reported an increase of more than 500 percent in cases where methamphetamine was reported as the primary drug problem. In 1996, methamphetamine-related arrests totaled 5,218. Tragically, an estimated 20 percent of these cases had children associated with them. Also, methamphetamine manufacturing labs ranged in operation from large multilayered organizations to small "mom and pop" shops producing the drug on kitchen stoves.

Local government, law enforcement, and community groups have worked hard to change San Diego's unfortunate but deserved reputation. Recently, however, methamphetamine use and production have spread rapidly, not only within the entire state, but throughout the nation, as well.

### METHAMPHETAMINE PRODUCTION DANGERS

The methamphetamine production process involves three basic stages. First, the cooking stage where the chemicals ephedrine, hydriodic acid, and red phosphorous are mixed and heated at various stages for about 12 hours and then strained to remove the red phosphorous, which is not water soluble and is fatal in large doses. Then the extraction stage involves adding sodium hydroxide to convert the acidic mixture to a basic one and then adding Freon to extract the methamphetamine from the base. Finally, the salting or drying stage includes adding hydrogen chloride gas to the mixture to convert it from an oil into a crystalline powder. All of the stages involve highly flammable and toxic substances.<sup>1</sup>

The danger to children becomes obvious when a methamphetamine lab explodes, killing or injuring them, or when authorities discover neglected children as a result of their parents' methamphetamine use. However, chemical burns and exposure to hazardous chemicals and deadly gases represent some of the more insidious and overlooked injuries caused by living in a methamphetamine lab environment. For example, authorities have found babies crawling on carpets where toxic chemicals used to make methamphetamine have spilled. They have seen children cooking their own meals in the same microwave ovens that their parents used to produce methamphetamine. Also, they have discovered chemicals used in methamphetamine production stored in open or improperly sealed containers in areas where children played. These chemicals emit hazardous fumes toxic enough to burn lungs; damage the brain, kidneys, and liver; or even kill these children. In a recent case, two boys received second-degree chemical burns on their arms when they fell off their bikes onto a patch of dirt in their backyard. Police officers discovered that their parents had dumped leftover waste from their methamphetamine production in the yard.

What can be done to protect these children? The available options do not always provide these children with the safest alternatives. For example, leaving the children with a neighbor or family member may prove risky because such individuals may not possess the ability to care for a child. Also, calling child protective services may result in lengthy delays because these agencies often are overworked and poorly equipped to handle emergency situations. Therefore, in many

instances, children return time and again to their unsafe, unstable homes because of the lack of available intervention resources. Further, often stymied in their attempts to get the children to a safe environment, police officers cannot focus on their primary missions of gathering evidence, putting offenders in jail, and preparing these cases for prosecution. Both kids and officers get caught in the middle of parental drug use and profiteering.

## **THE SOLUTION**

For years, the concept of children as victims of the methamphetamine epidemic remained unknown. However, in 1995, the issue gained national attention when a Riverside County methamphetamine lab exploded, killing three small children. Their mother received a conviction for second-degree murder and appealed the verdict. In March 1998, the Fourth District Court of Appeals ruled that manufacturing methamphetamine is an inherently dangerous felony for the purpose of the second-degree felony-murder rule.<sup>2</sup> This case sparked state legislation that added prison enhancements for the presence of children at methamphetamine labs. As of January 1998, defendants found guilty of manufacturing methamphetamine in the presence of children under 16 face a 2-year prison enhancement. The methamphetamine producer can expect an additional 5-year penalty enhancement when a child is injured as a result of the methamphetamine production process.

### **The Drug Endangered Children Program**

In conjunction with strengthening state law, California awarded grants to four counties (San Diego, Los Angeles, Santa Cruz, and Orange) to identify issues, establish protocol, and implement a multidisciplinary approach to protecting children victimized by exposure to methamphetamine manufacturing. In each county, the district attorney's office developed a program employing the skills, knowledge, and experience of individuals from law enforcement, health care, and social services.

### **Program Description**

In San Diego County the district attorney's office used the successful Jurisdictions Unified for Drug/Gang Enforcement (JUDGE) program as an umbrella organization and model to launch the Drug Endangered Children (DEC) program in January 1998.<sup>3</sup> Besides fostering greater cooperation and coordination between social services and law enforcement, DEC studies and documents the environmental hazards that children are exposed to in these methamphetamine "kitchens of death." Health care workers establish the medical procedures and document the testing of these children. Prosecutors then use this information to add child endangerment enhancements targeting methamphetamine manufacturers.

After reviewing area drug statistics, the San Diego district attorney decided that North San Diego County represented the logical place to implement the program. Over the past 2 years, 90 percent of methamphetamine lab seizures occurred in North County. In 1997 alone, police discovered 62 methamphetamine labs, and 40 percent of these had children present or living at the site.<sup>4</sup> In one case, a mother and her boyfriend were cooking methamphetamine in their apartment's only bathroom when the substance ignited. Fortunately, the mother and her 2-year-old son escaped the fire without injury. Her boyfriend also fled the scene, but officers later captured and identified him by the burns on his arms.

### **Coordinated Efforts**

In the past, police officers who encountered children in a methamphetamine lab environment attempted to contact the Children's Services Bureau to remove the children. However, the officers either had to transport the children to a facility or find someone who could care for them. In these situations, even when social workers responded, no specific procedures existed. Often the children did not receive proper medical testing, examinations or interviews.

Unfortunately, lack of communication and sometimes-unclear jurisdictional parameters existed among law enforcement, social services, and health care providers.

Under DEC, however, social workers and health care providers have joined police officers in helping children involved in methamphetamine arrests. Social workers can respond to the scene and transport children exposed to toxic chemicals to the proper medical facility. Health care providers have created guidelines so that children found in methamphetamine lab environments will receive all of the necessary testing and treatment procedures. Also, once medical authorities have verified that these children have been exposed to methamphetamine and the toxins associated with its productions, they track the children's progress to ensure their continued health and safety. Additionally, before DEC started, concern for children living or present at the site of a methamphetamine lab did not represent a prosecutorial priority. Usually, police officers would note the extremely poor living conditions when they arrested the parents but seldom documented these circumstances, unless they did so accidentally in photographs of the lab site.

Now, as part of DEC, officers complete forms that describe the conditions and hazards present in the home or at the lab site. The forms also direct officers to interview children and collect evidence for endangerment prosecution. Moreover, the deputy district attorney assigned to the team can assist police officers in their investigation and prosecute these cases, including child endangerment charges if warranted.

### **Program Results**

Local police officers in San Diego County have responded favorably to the team concept of DEC. The program allows officers and social workers to use their collective experience to work together on a joint mission – removing children from dangerous environments. At the same time, it permits officers to concentrate most of their efforts on the critical law enforcement matters associated with these incidents. A recent DEC case involving a methamphetamine-producing parole violator illustrates how some officers feel about this program. When deputies arrived at the residence, they found two small children running around a filthy house littered with old food and dirty diapers. In a back bedroom, they discovered a crying 6-month-old baby obviously in desperate need of a diaper change. One deputy stopped the baby's crying by changing her diaper and then picked her up and comforting her. While waiting for a social worker to arrive, another deputy took the handcuffs off the baby's mother so she could care for her baby. However, when the deputy placed the baby in her mother's lap, the baby began crying, and the mother had no idea how to comfort her. The deputy picked up the baby again, and she immediately calmed down. The deputy later said that the baby seemed to know that the police were there to help her. Another deputy noted that helping a little child made his job worthwhile.

### **CONCLUSION**

Methamphetamine manufacturing has added a new casualty to its long list of victims caught in the morass of drug abuse. In increasing numbers, children of methamphetamine producers have become victimized by their parents' illegal manufacture and use of this substance. These parents neglect their children's development and place them in hazardous living conditions that can cause serious health problems, even death.

Law enforcement officers have found it increasingly difficult to find safe havens for these children left behind by their parents' arrest. The San Diego District Attorney's Office brought together the necessary resources to design and implement a solution. By coordinating the efforts of law enforcement, health care, and social services under one centralized program, the Drug Endangered Children program has helped to handle this sad but mushrooming situation. Agencies responsible for the public's safety may want to consider developing similar programs

for the children of arrested methamphetamine users and producers before their communities face the same crisis.?

### **Endnotes**

1 U.S. Department of Justice, National Drug Intelligence Center, Hazards of D-Methamphetamine Production, June 1995.

2 People v. James, 62 Cal. App. 4th 244 (1998)

3 Formed in 1987, JUDGE uses a multijurisdictional approach to target gangs and drug dealers. Because of the high volume of methamphetamine trafficking and lab cases prosecuted, JUDGE proved the logical organization to implement the DEC program.

4 Statistics compiled by DEA South West regional Lab and California Bureau of Narcotic Enforcement, San Diego Office.

**Kyle Smith**

**From:** David Hutchings  
**Sent:** Tuesday, November 12, 2002 2:09 PM  
**To:** Kyle Smith  
**Cc:** Rod Page; Kirk Thompson; Al Keil; Steve Rosebrough  
**Subject:** FW: DEC Question

Knowingly placing a child in the proximity of a methamphetamine lab is knowingly placing a child in an environment where that child will be exposed to fumes and chemicals which are either poisonous, flammable, explosive, corrosive, carcinogenic... or some combination thereof. The result may be severe and permanent physical damage, if not a life threatening exposure.

Existing legislation which addresses grave bodily harm or the potential for it has been has been termed as *aggravated* and classified as a felony. It would seem to follow logically that, when we are addressing an intentional act of placing a child in an environment where they will be exposed to varying levels of dangerous substances that could endanger the child's life or well being, we would place that act at the level of a felony. Other legislation which deals with acts committed against a child by a parent or caregiver have also been termed as aggravated, as have acts where an individual acts against someone over whom they exert authority. Clearly a child often has no ability to exercise the privilege of removing themselves from that environment.

Methamphetamine labs specifically, and illegal drug activity in general, are inherently dangerous, as is demonstrated by the great precautions taken by investigators when conducting search warrants, undercover purchases, surveillances...

I feel that Kansas needs a law which adequately addresses the situation where children are intentionally placed in situations which are clearly a danger to their life and health, and that a violation of that law should follow past logic and be placed at the level of a felony. I also think that it would be appropriate, since all labs are inherently dangerous, that it be considered presumptive that a child knowingly placed in that environment would be considered to have been endangered.





# KANSAS

JUVENILE JUSTICE AUTHORITY  
DENISE L. EVERHART, ACTING COMMISSIONER

KATHLEEN SEBELIUS, GOVERNOR

## SENATE JUDICIARY COMMITTEE MARCH 20, 2003

### Testimony on House Bill 2314

The purpose of HB 2314 is to establish the statutory structure for the new Kansas Juvenile Correctional Complex and subject the facility to the same statutes, rules and regulations as all other facilities operating under the authority of the Commissioner of Juvenile Justice.

Appropriations were made during the 2000 session to build the facility with occupancy planned for fiscal year 2004. The appropriations for the facility became necessary based upon the increasingly violent characteristics of the juvenile populations, the projected increase in the juvenile correctional facility population through 2007 and the need for a diagnostic and classification center.

The new 225-bed complex will provide 150 beds for offenders who meet maximum security level classification needs, 60 beds for classification and diagnostics services for all new admissions to the JCF system, and a 15 bed infirmary for offenders needing long-term overnight medical care. A total of 200 beds for male juvenile offenders will be added to the system.

The agency currently has a bed capacity of 435 for male offenders. Our average daily population today is 446. It is expected to continue to increase reaching 574 by fiscal 2007.

The facility will operate with a staff of approximately 224 FTE plus some contract personnel.

The bill itself would simply add the Kansas Juvenile Correctional Complex to the facilities operated by the Juvenile Justice Authority and add its name anytime the juvenile correctional facilities are listed by name to ensure clarity when budgeting and operating the facilities.

Thank you for the opportunity to appear today, and I respectfully request passage of this bill.

Denise L. Everhart  
Acting Commissioner

DLE:JF:bt

Senate Judiciary

3-20-03  
Attachment 5-1