



**A REPORT TO THE
SOUTH CAROLINA GENERAL ASSEMBLY
BY THE STATE LAW ENFORCEMENT DIVISION
OF THE
METH LAB STUDY COMMITTEE**

**Pursuant to Proviso 48.19, of Part IB of the Appropriations Bill H.3700 of the
119th Session (2011/2012) of the
SC General Assembly**

**Submitted
January 26th, 2012**

**Mark A. Keel
Chief**

Pursuant to Proviso 48.19, of Part IB of the Appropriations Bill H.3700 of the 119th Session (2011/2012) of the SC General Assembly, the State Law Enforcement Division formed a Committee to ***“study the problems of cleaning illegal methamphetamine labs, disposing of hazardous materials from those labs, and the costs associated with such clean-ups”***.

The State Law Enforcement Division is charged with making a written report with recommendations to the General Assembly no later than January 30, 2012.

The following persons participated in the Committee meetings which were held on October 12th, 2011 and November 1st, 2011 in Columbia, South Carolina:

Scott Bailey, Drug Enforcement Administration (DEA) – Columbia
Wendy Bell, SC Law Enforcement Division (SLED) – LT, Forensics
Chad Brooks – Pickens County Sheriff’s Office – CAPT
Jared Bruder – Executive Director, South Carolina Law Enforcement Officers’ Association (SCLEOA)
Doug Bryson – Coordinator, Spartanburg County Emergency Management Division
Clyde Buchanan – South Carolina Department of Health & Environmental Control (DHEC) – Solid and Hazardous Waste Compliance
Randy Carter – Charleston Fire Department/HAZMAT – Battalion Chief
Martha Casto – SC Senate, Medical Affairs Committee
Frank Conrad – SC Law Enforcement Division (SLED) – CAPT, Arson/Bomb Squad
Max Dorsey – SC Law Enforcement Division (SLED) – LT, Narcotics
Quincy Ford – SC Law Enforcement Division (SLED) – S/A, Narcotics
Shawn Gibbons – Dorchester County Sheriff’s Office – LT
Thomas Hamilton – Lexington County Sheriff’s Office – LT
Steve Holmes – Greenwood Fire Department/HAZMAT – Assistant Chief
Laura Hudson – SC Crime Victims’ Council (SCCVC) - Director
Todd Hughey – SC Law Enforcement Division (SLED) – MAJ, Forensics
Richard Hunton – SC Law Enforcement Division (SLED) – MAJ, Homeland Security
Ken Kerber – Fort Mill Fire Department – Chief/SC State Firefighter’s Assoc., President
Joe Koenig – Florence County Sheriff’s Office / DEA Task Force
Steve Lanford – Executive Director, SC EMS Association
Morgan Lindsey – Phillips Recoveries
Jay Marett – Greenville County Sheriff’s Office – Deputy Director/Emergency Management Division
Steven McDade – Anderson County/SC EMS Association, President
George McKinney – Director, SC Emergency Management Division

Charley McNair – Cayce Department of Public Safety – Chief/SC Police Chief’s Association, President
Michael Miller – Director, Anderson / Oconee Regional Forensics Laboratory
Jeff Moore – Executive Director, SC Sheriffs’ Association
Josh Morton – SC Emergency Management Division – Region 6 Emergency Manager
Daphne Neel – SC Department of Health & Environmental Control (DHEC) – Chief/Bureau of Land and Waste Management
John O’Donald – Incoming Executive Director, SC Police Chief’s Association
Frank O’Neal – SC Law Enforcement Division (SLED) – CAPT, Narcotics
Katie Owen – SC House of Representatives, Ways and Means Committee
Jason Pope – Deputy Director, SC State Firefighters Association
Julie Price – SC Senate, Medical Affairs Committee
Claire Prince – SC Department of Health & Environmental Control (DHEC) – Bureau of Land and Waste Management
Josh Rhodes – SC Association of Counties
Kathryn Richardson – SC Law Enforcement Division (SLED) – Public Information Officer
David Ross – SC Commission on Prosecution Coordination, Executive Director
Scott Slatton – Municipal Association of SC
Kim Stenson – SC Emergency Management Division – Chief of Staff
Jackie Swindler – Newberry Police Department – Chief/SCLEOA, Incoming President
Ben Thomas – SC Law Enforcement Division (SLED) – Assistant Chief
Frank Thompson – Dorchester County Sheriff’s Office – LT
David Wilkie – SC Department of Health & Environmental Control (DHEC) – Bureau of Land and Waste Management/State Remediation
Herman Young – Fairfield County Sheriff’s Office – Sheriff/SC Sheriffs’ Association, President

Background

The Committee reports that methamphetamine laboratories are illicit operations which have the equipment and chemicals needed to produce the powerful stimulant methamphetamine. These laboratories vary noticeably in size and output. Large laboratories, known as super labs, produce 10 pounds or more of the drug per production cycle and typically take up large amounts of space. Much smaller laboratories, sometimes called “Mom & Pop” labs, produce as little as a few grams of the drug and are small enough to fit in a shoe box or backpack.

Methamphetamine laboratories may be located virtually anywhere to include secluded rural areas as well as residential, commercial, and industrial areas. Law enforcement officers in South Carolina have seized laboratories at private residences, commercial

properties, hotels and motels, and outdoor locations. Additionally, mobile laboratories have been discovered in automobiles, motorcycles, and boats.

Most chemicals used to produce methamphetamine are extremely hazardous. Some are highly volatile and may ignite or explode if mixed or stored improperly. Fire and explosion pose risks not only to the individuals producing the drug but also to anyone in the surrounding area, including children, neighbors, and emergency responders.

Methamphetamine production is dangerous, even if a fire or explosion does not occur. Exposure to the toxic chemicals used to produce methamphetamine poses a variety of health risks including serious respiratory problems, severe burns, and damage to internal organs.

Furthermore, methamphetamine production threatens the environment. The average methamphetamine laboratory produces 5 to 7 pounds of toxic waste for every pound of methamphetamine manufactured. Persons involved in the manufacturing of methamphetamine often dispose of this waste improperly, causing contamination of the soil and nearby water supplies.

Meth Labs in South Carolina

South Carolina has seen an increase in meth lab incidents since 2008. According to the US Drug Enforcement Administration (DEA) and other law enforcement resources, South Carolina reported more meth lab incidents than its neighboring states from 2008 to 2010.

For more than a decade, the DEA has provided funding to law enforcement agencies nationwide to remove the gross contaminants found at meth lab sites. This funding ended in February of 2011 and the financial responsibilities associated with meth lab clean-ups fell to the law enforcement entity responsible for the initial seizure of the labs. This financial burden, combined with a challenging economic climate, caused many law enforcement agencies throughout the nation to review their meth lab enforcement protocols due to the high cost of removing the gross contaminants when detected. The

average cost for the response of a hazardous waste contractor to remove gross contaminants from a meth lab site in South Carolina is approximately \$2500 to \$2800.

As a result, the SC General Assembly included non-recurring funds in SLED's budget to be used exclusively for the disposal of methamphetamine lab related waste during fiscal year 2011/2012. This funding was aimed at reducing the fiscal burden placed on law enforcement budgets. Accordingly, SLED developed an internal process to manage these funds to ensure accessible, timely, and effective responses to agencies across the state.

SLED's Drug Lab Clean-Up Program (DLCP) provides funding for the removal of gross contamination at clandestine laboratory sites and dump sites. However, the remediation of property is the responsibility of the property owner. The DLCP does not provide funding for contractors to remediate residual contamination at these sites.

Proactive Recommendations

The Committee recognizes the importance of balancing preventive efforts and enforcement actions. However, the Committee encourages an increase in proactive efforts to prevent meth labs before they become operational rather than concentrating all resources towards addressing these sites after these labs have been established. The Committee recommends the following proactive measures be taken:

1) Enact legislation to further restrict the sale of pseudoephedrine, ephedrine, or phenylpropanolamine (PSE) based products. These restrictions may include:

a) Designating all pseudoephedrine, ephedrine, or phenylpropanolamine (PSE) based products as Schedule III drugs. This action would require a prescription from a doctor before the drugs could be dispensed to the customer by a pharmacist.

b) Decrease the daily and monthly purchase limits from the current 3.6 grams per day / 9 grams per month to lesser amounts. This is also a

recommendation by the Study Committee on the Implementation and Application of Act 275 of 2006.

Reactive Recommendations

The Committee is aware that no amount of prevention will totally eliminate the demand for such an addictive drug like methamphetamine. With this in mind, the Committee recognizes the importance of all governmental agencies being prepared to deal with the direct and indirect affects of methamphetamine production. Therefore, the Committee recommends the following reactive measures be taken to address the issues associated with methamphetamine manufacturing:

- 1) Provide the State Law Enforcement Division (SLED) recurring funds to continue the existing Drug Lab Clean-up Program (DLCP); This Program provides services and funding necessary for local law enforcement agencies across South Carolina to remove gross contaminants from meth lab sites.¹
- 2) Enact legislation that requires the proper and accurate reporting of all meth lab and meth lab dump sites to the appropriate State agency.
- 3) Authorize DHEC to form a committee to evaluate the need for the development of cleanup standards or applicable guidelines. To date, there has been little standardization of measures for determining when the site of a closed methamphetamine laboratory has been successfully remediated. Data on methamphetamine laboratory-related contaminants of concern are very limited, and cleanup standards do not currently exist. Many states are struggling with establishing remediation guidelines and programs to address the rapidly expanding number of methamphetamine laboratories being closed

¹ Additionally, provide SLED recurring funds to allow for the hiring of a Full Time Employee (FTE) to serve as the Agency's Clandestine Lab Coordinator to coordinate the following:

- SLED's Clandestine Lab Team
- National Precursor Log Exchange (NPLEx) Manager
- DLCP Manager

Also provide funds to allow for the hiring of an FTE to serve as the administrative assistant to the Agency's Clandestine Lab Coordinator.

each year. At the national level, the Environmental Protection Agency (EPA) was tasked with developing standards for clean-ups and have yet to do so, although they have published a voluntary guideline which is available for use.

As standards or guidelines are developed from the DHEC study committee; state, county, and municipal entities should be empowered to enforce these standards or guidelines to include but not limited to condemning structures when appropriate, as a result of the structure being the site of a methamphetamine lab and/or meth lab dump site.

4) Enact legislation, and provide funding for, the establishment of a publicly accessed database which catalogues the location of meth lab sites which have been seized throughout the State of South Carolina. This database could be managed and maintained by the State agency designated as the repository for all meth lab incident reporting. It is recommended that such responsibilities be performed by a State Agency with an established GIS Mapping System.

5) Enact legislation that requires a vehicle title have a designation when a meth lab is seized from the vehicle. This title designation could be removed if documentation proved the vehicle has been cleaned to a standard or guideline which should be established by DHEC in accordance with the Environmental Protection Agency (EPA).

6) In incidents where children have been removed from meth lab environments, the Department of Social Services (DSS) must be required to investigate the site and determine it has been “cleaned” to a standard or guideline which should be established by DHEC in accordance with the Environmental Protection Agency (EPA) before children are returned to the family and/or residence. It is recommended that DSS be provided training by DHEC or an appropriate provider as to the approved guidelines for determining that the location is in fact “cleaned”.

7) While making the determination as to where to place children who have been removed from a meth lab site, DSS should be required by statute to consult with the investigating law enforcement agency to ensure the children are not placed with a relative or associate

that is involved in the same type or related activity. This may require some revisions in SC Code of Laws 63-7-920 and/or 63-7-1680.

8) In 2005, a SC Drug Endangered Children Protocol was established in South Carolina to provide guidance to law enforcement, emergency services workers, health care providers, and social workers on how to deal with children who are affected by drug abuse. The Committee commends the creation of this valuable tool and encourages the original participants to revise the protocol to include updated information, direction, and awareness of resources for victims of meth labs such as funding for medical and psychological evaluations and treatments.

9) Enact legislation prohibiting the sale of pseudoephedrine, ephedrine, or phenylpropanolamine (PSE) based products to persons convicted of any methamphetamine associated crimes, to include but not limited to the possession, distribution, trafficking, and/or manufacturing of methamphetamine or any conspiracy thereof.

Cost Saving / Cost Sharing Recommendations

The Committee recognizes the substantial economic costs directly and indirectly associated with methamphetamine labs. Therefore, the Committee recommends the following cost saving and cost sharing measures:

1) The law currently allows for disposal of conditionally-exempt small quantity hazardous wastes in a Class III landfill. However, it is well known that most landfills will not accept these types of materials. DHEC is willing to work with the Class III landfill owner/operators to revisit this issue for hazardous waste contractors of cleanup operations of meth lab sites. If Class III landfill usage increases for meth lab contaminants, a decrease in cost would be seen in the area of clean-ups because hazardous waste contractors would be able to use these types of landfills, at a reduced cost, rather than ship these contaminants to high cost incinerators.

2) Encourage and facilitate the cross jurisdictional and regional collaboration of law enforcement, fire, and hazardous materials responders to most efficiently and safely respond to meth lab sites for processing. These teams could share resources so as to not burden any one particular jurisdiction and/or department.

3) Understanding that pseudoephedrine, ephedrine, or phenylpropanolamine (PSE) based products are legitimate medicines legally used by millions of Americans each year, the Committee recognizes that these same products are an essential ingredient used in the manufacture of methamphetamine. From February to August of 2011, South Carolina retailers sold more than 600,000 boxes of pseudoephedrine, ephedrine, or phenylpropanolamine (PSE) based products. An unknown number of these sales led to the manufacture of a quantity of methamphetamine. The Committee believes that an assessment or surcharge could be placed on these products to assist the State in recouping a portion of the costs associated with funding the programs and initiatives enumerated in this report, to include but not limited to SLED's Drug Lab Clean-up Program (DLCP). The Committee also recommends requiring persons convicted of meth related crimes in South Carolina to pay a special assessment fee to assist with funding requirements for these same programs.

4) Section 44-53-376(C) of the SC Code of Laws requires that anyone convicted of unlawful disposal of methamphetamine waste must make restitution for emergency response costs, in addition to any other fine or penalty required by law. The Committee encourages all prosecutors to ask the Courts for this restitution from any defendants convicted of crimes where this Section is applicable. This request is further explained through the attached letter drafted by the Committee to SC Solicitors and the SC Prosecution Commission (*SEE ATTACHMENT "A"*).

5) SC Law requires residential property owners who are in possession of properties which have been contaminated with meth labs to disclose this information to potential buyers. The Committee recommends penalties for parties that fail to disclose this information to potential buyers. This information can also be disclosed through the

publicly accessed database further discussed in Item #4 under Reactive Recommendations.

Alternatives

The Committee discussed alternative measures that could be explored in dealing with the clean-up of meth lab and meth lab dump sites. However, taking into consideration the amount of training, up-front costs, and additional responsibilities to be placed on emergency services, particularly law enforcement, the Committee **does not recommend or endorse these measures.**

1) Container Program (Authorized Central Storage Program)

This alternative measure would involve an appropriate State agency organizing and overseeing a number of storage containers strategically placed at various locations around the State to serve as temporary holding facilities for contents removed from meth labs. These contents would be removed by law enforcement from meth lab sites, properly packaged and documented, and then transported to the nearest container. Once the container has been filled to a certain level, a hazardous waste contractor would be contacted to remove the contents of the container and properly dispose of the waste. There are certain cost savings in such programs, however these savings have not been seen immediately. States moving to container programs have reported substantial up front investments due to the purchase of equipment (containers, transport trailers), and personnel and training costs. Upon the successful set-up of these programs, savings have been realized through decreased travel and labor costs by the hazardous waste contractors. The container program concept reduces costs by only requiring a hazardous waste contractor to respond to a container once it meets storage capacity, therefore reducing the time charged to travel.

The Committee does not recommend this measure at this time because:

- a) Law enforcement will be responsible for properly identifying and segregating items removed from each meth lab site and packaging these items appropriately, therefore incurring costs for packaging materials at each removal site.

b) Law enforcement will bear the costs for designating personnel specifically to conduct these types of operations which will include training the personnel and purchasing additional equipment. This equipment will consist of specialty vehicles to transport hazardous materials.

c) Upon properly packaging of these items, law enforcement agencies will be responsible for transporting these materials to the closest Container, which would require the agency's personnel to travel on State highways with hazardous materials; This would likely increase liability for the agencies transporting the hazardous materials.

The Committee recognizes the Container Program could provide for cost savings. However, the Committee recommends that SLED's Drug Lab Clean-up Program (DLCP) be fully funded for a period of no less than three (3) years to assess any cost benefits of the Program and to determine if changes can be made to provide more efficient services to SLED's customers and to make more efficient use of funds provided. Additionally, during this time period, SLED plans to monitor any implementation of Container Programs in other states and determine what successes these states have had with such programs.

2) Clean-up costs remain the responsibility of the agency that seizes the meth lab site. This measure is not recommended because of the substantial burden that will be placed on county and municipal governments as they bear the substantial costs of paying for clean-ups and/or finding alternative ways to dispose of these gross contaminants. This process would require consideration for additional duties, training, and equipment costs by these same government entities.

Draft Letter to SC Solicitors & SC Prosecution Commission

On behalf of the Meth Lab Study Committee created by Proviso Number 48.19 of Part IB of the Appropriations Bill H.3700 of the 119th Session (2011/2012) of the SC General Assembly, I am writing to request your assistance with seeking restitution from persons convicted of the disposal of methamphetamine waste in cases where a local or state public agency has incurred emergency or environmental response costs.

In 2006, the South Carolina General Assembly enacted legislation to address the alarming increase in illegal methamphetamine laboratories, and the resulting environmental harm caused by disposal of methamphetamine waste generated by these labs. Section 44-53-376(A) of the S.C. Code of Laws (Act 275 of 2006) makes it unlawful for a person to “knowingly cause to be disposed any waste from the production of methamphetamine or knowingly assist, solicit, or conspire with another to dispose of methamphetamine waste.” A person who is convicted is guilty of a felony and may be imprisoned up to five years and fined up to five thousand dollars for a first offense, and up to ten years or ten thousand dollars for a second or subsequent offense.

Section 44-53-376(C) requires that anyone convicted of unlawful disposal of methamphetamine waste must make restitution for emergency response costs:

“If a person is convicted of a violation of this section, in a manner that requires an emergency or environmental response, the person convicted must be required to make restitution to all public entities involved in the emergency response to cover the reasonable cost of their participation in the emergency response. *The convicted person shall make restitution in addition to any other fine or penalty required by law.*” (*Italics added*)

I am asking your assistance to first ensure that in a meth lab case, the charges against the defendant(s) include Section 44-53-376 in appropriate cases and second, that restitution include the emergency or environmental response costs incurred by the responding local or state agency. When a local or state agency responder incurs emergency or environmental response costs associated with a meth lab raid, it should prepare a detailed itemization of its costs, along with a letter to the attorney prosecuting the case, requesting that these costs be included in the restitution claim. An agency contact person will be included in the letter to provide any information or assistance with regard to the agency’s involvement.

Thank you in advance for sharing this information with the attorneys and judicial officers handling these cases. Please do not hesitate to contact me if you have any questions.

Sincerely,
(Signed on behalf of the Study Committee)