



Minutes

House Select Committee on Methamphetamine Abuse

**Tuesday, April 24, 2012
Room 1425, Legislative Building
2:00 pm**

The House Select Committee on Methamphetamine Abuse met on Tuesday, April 24, 2012 at 2:00 p.m. in Room 1425 of the Legislative Building.

Representative John Faircloth, Co-Chair presided.

The following members were present:

Representative Craig Horn, Co-Chair
Representative Sarah Stevens
Representative Mark Hollo
Representative Tom Murry

Representative Annie Mobley
Representative Joe Tolson

Representative Faircloth called the meeting to order. He welcomed everyone, and reminded the Representatives to fill out and return their reimbursement forms. Representative Faircloth welcomed and recognized our House Sergeant at Arms, John Brandon, and Young Bae. Minutes were approved as presented.

Representative Faircloth introduced Special Agent Van Shaw, Deputy Assistant Director of the Special Operations Division, with the State Bureau of Investigation. He asked Director Shaw to update the committee on the methamphetamine problem that we have in North Carolina.

(Attachment 1) Director Shaw's Presentation: Methamphetamine Lab Update

1. 168 Lab Incidents as of April 23, 2012
2. "One Pot Method" continues to be the most common production method in North Carolina.

3. Each “One Pot” Production Method produces between 2.0 grams to 5.0 grams per production cycle.

4. Based on statements obtained from suspects at methamphetamine lab sites, the average lab operator will complete three production runs per week.

5. Each lab site would conservatively produce between 312 grams (11.5 ounces) to 780 grams (28.0 ounces) of methamphetamine per year. Based on current lab seizures, between 1,932 ounces and 4,704 ounces would have been manufactured if the lab had gone undetected.

6. 21 Children have been removed from methamphetamine labs as of April 23, 2012.

7. NPLEX Update:

- 99.07% of all North Carolina Pharmacies are participating.
- 2012 First Quarter blocked sales - 17,593
- 2012 First Quarter blocked sales in Grams of Pseudoephedrine – 47, 519
- 289 Law enforcement Accounts
- 538 Active Watches
- 1,261 Searches

(Attachment 2) Director Shaw included the 2012 Clandestine Lab Responses as of April 9, 2012, by county.

(Attachment 3) NPLeX Monthly Program Administrator’s Dashboard is a synopsis that the SBI administrator receives that tells them what is going on with the NPLeX system. 99% of all North Carolina Pharmacies are participating in the program. The small percentage left over tends to be health care facilities that have pharmacies, but do not sell to the public. In the first quarter of 2012 there were over 17,000 blocked sales. For the first quarter there were 47,519 blocked grams of pseudoephedrine. There are 538 active watches and over 1200 searches have been conducted.

(Attachment 4) North Carolina State Bureau of Investigation Tackling the Meth Lab Epidemic: North Carolina must continue to invest in the SBI to target the growing meth lab epidemic while also providing law enforcement and prosecutors with speedy analysis for meth and other drug cases.

The SBI is the only law enforcement agency in North Carolina trained to process meth labs. On average, SBI Chemists spend 40 hours on each meth lab, compared to less than one hour processing a cocaine sample that has been submitted for testing. There were more than 344 meth lab busts in North Carolina, a 46% increase in 2011 alone. The SBI anticipates that it will respond to as many as 700 meth labs this year. The growing meth problem is hurting our children. North Carolina law enforcement officers are finding children living in more than 20 percent of homes where meth is made. In the last two years, 142 children were removed from meth labs in the state. Recently, an 11 month old child with chemical burns was pulled out of home with a meth lab. Children in these homes are exposed to toxic chemicals and threatened by fire and explosions, and they are often neglected or abused.

The SBI needs more agents for its Methamphetamine Response Team in order to more effectively combat the proliferation of illegal meth labs in North Carolina. These teams will include drug agents and drug chemists to process the labs safely and gather evidence for prosecution. Additional agents and drug chemists are required to respond to, render safe, and combat the dramatic growth in meth labs and meth trafficking in North Carolina. It is recommended that the SBI add a 9 member unit to combat meth manufacturing and the increase in meth drug trafficking activity. The unit would consist of 6 agents, 2 forensic drug chemists, and 1 administrative assistant. The requested appropriation is \$595,834 (Recurring).

At the conclusion of Director Shaw's presentation, he offered to answer questions.

Representative Tolson: Are most of the cooks the SBI finds for self-use or for sale?

Director Shaw: The majority are self-use. They typically see groups of 3 – 5 people that are working together to manufacture meth. They do not seize a lot of meth at meth sights because as soon as the meth is ready they ingest it or pass it to someone who is invested in that manufacturing process.

Representative Stevens: What happened to the 21 children that have been removed from meth labs as of April 23, 2012?

Director Shaw: The SBI contacts the Department of Social Services. The children receive a medical screening at the hospital immediately. That process is handled through them.

Representative Horn: Top users by usage on the NPLeX Handout (**Attachment 3**). Please explain the handout.

Director Shaw: It is the system reporting the individual investigators that are actively using the system most often.

Representative Horn: If we know where most of the blocks are being made, how is that tool being used to reduce? Why are we not seeing reduction?

Director Shaw: Based on interviews from suspects that we have arrested there are organized groups that go out for the purpose of bypassing this system. They will obtain a driver's license from multiple people. They will go to friends and relatives and borrow their driver's license. They take the ID and go from pharmacy to pharmacy and swipe the ID. They are known as smurfers. They purchase the daily or monthly limits. They will pass the ID's as much as they can. When they are blocked they know that ID is dead until the 30 day process is up. Then they start again.

Representative Horn: Would we not be able to develop a profile on the driver's license that is maxed out every month and law enforcement go talk to that person?

Director Shaw: If you continue to purchase within the legal limits law enforcement will never follow up. This database is only offender driven. Only if purchasers exceed will they then take

notice. If they do not and go in and structure the purchases to where there is no alarm or stop sale, then the SBI will not see that.

Representative Horn: What do we do? What tool can the Legislature give the SBI that will stop this?

Director Shaw: To schedule pseudoephedrine obtainable by prescription only and take it away from a retail sales environment. Even though it is restricted the SBI is seeing an increase in meth labs.

Representative Horn: What are the numbers of one pot's versus a more traditional lab?

Director Shaw: They are seeing approximately 90% one pot versus traditional methods that might be red phosphorus or anhydrous ammonia type cook. 90% are one pot's across the state.

Representative Faircloth: How would you compare what is being manufactured in North Carolina with what is being brought in already manufactured?

Director Shaw: The large majority of the meth in the United States comes from Mexico. Most of those drug trafficking organizations have switched over to a P2P method. It is an older method that does not make the same potency or purity of meth that you make when you use pseudoephedrine. Mexico has introduced very extreme pseudoephedrine restrictions methods such as importation, basically removing pseudoephedrine from their market or limiting it greatly. They have switched over to this other method. There is D methamphetamine that is very dangerous and potent that is made from pseudoephedrine. L methamphetamine is light and made from the P2P process. The preference is the D meth because it is more potent.

Representative Horn: Is your request for appropriation included in your overall budget request to the General Assembly or is that request being sent separately?

Director Shaw: It is included in the overall budget request.

Representative Stevens: Why are meth labs coming up in more rural areas?

Director Shaw: The SBI has found that they tend to prefer the rural areas just from a detection standpoint. A lot of meth cooks cook in the woods. They want to keep the meth lab off of their property so they will walk into the woods or down a remote dirt road and do a one pot. They can discard the waste on rural roads. It is less detectable.

Susan Sitze: What is the amount of pseudoephedrine?

Director Shaw: It depends on the person manufacturing, how good they are and their recipe. It can be as high as 90% or can be as low as 60%. Probably a safe range is about an 85% conversion rate. If you had 10 grams of pseudoephedrine you are probably going to get 7.5 to 8.5 grams of methamphetamine. Experience levels really impact what they end up with as the final product.

Representative Horn: The map shows the western counties with lessening use of meth. Johnson, Wayne and Harnett counties show an increase. Is that reflective of a dramatic trend change?

Director Shaw: No, not really. Those five cluster counties in Eastern North Carolina have been consistent in their lab numbers. That area has had a high concentration of labs. Counties come on and off the map over the years.

Representative Mobley: What is the turnaround time for getting the SBI to newly discovered meth lab?

Director Shaw: It depends where the lab is in the state. They have issues where the chemists have to come out of crime laboratories. They try to pick the closest response resource to get them there as quickly as possible.

Representative Horn stated that ABC news reported that 30% of all people in burn units in the United States are there as a result of meth explosions. He heard from some people in North Carolina that the number was closer to 20%. Is there any credibility to either statistic?

Director Shaw: Reports have shown more individuals showing up at the ER with burns related to meth lab explosions. In the one pot manufacturing process you are putting lithium metal in there to spark a reaction. Inside that same container is something like Coleman lantern fluid. Lithium metal is air and water reactive. If it gets air around it and sends off a spark then it will explode. The SBI has seen a number of those occur. As far as a percentage, they cannot go to the ER and ask how many burns have they seen and how many were related to meth labs.

Representative Faircloth asked if there were any other questions. He thanked Director Shaw for his presentation.

Representative Faircloth apologized that he had forgotten to introduce the staff in the meeting; Hall Pell and Susan Sitze.

Representative Faircloth introduced Jim Acquisto, Vice President, Government Affairs, Information Services Group, Appriss, Inc. The company is located in Louisville, KY, and has been in business for 18 years. They operate the NPLeX system, which has been operational for 3 years.

(Attachment 5) Jim Acquisto's Presentation: NPLeX Update

North Carolina NPLeX

- Implemented January 1, 2012.
- ALL data is in one database.
- Seamless interstate communication.
- Seamless inter-retailer communication.
- ONLY law enforcement has comprehensive access.
- NO cost to states, law enforcement, or retailers.

How does an NPLEEx transaction work?

- Prospective purchaser asks to buy a precursor.
- Clerk is prompted to ask for ID.
- ID scanned, swiped, or manually entered by clerk.
- Precursor product scanned or manually entered by clerk.
- NPLEEx advises clerk how much the prospective purchaser can buy, or if that sale is approved.
- Clerk sells, or denies.
- If sold, purchaser signs log.

Every single transaction is available in less than 60 seconds for law enforcement to see.

Listed below are totals for NPLEEx blocked sales in 2011 for states not using NPLEEx compared to states that are.

	<u>Non NPLEEx States</u>	<u>NPLEEx States</u>	<u>Total</u>
Blocked Sales	215,824	642,848	858,672
% of boxes	1.7%	2.8 %	2.4 %
Total grams blocked	558,161 grams	1,515,529 grams	2,073,690 grams

Fighting Smurfing:

- Blocking sales in real-time prevents pseudoephedrine from being transformed into methamphetamine.
- Law Enforcement knows who was blocked in near real-time.
- Law Enforcement sees all purchases to look for trends and clues to smurfing groups.
- Blocking offenders (convicted, parolees, pre-trial releasees, etc.) can be easily executed per state authorization.
- NLETS (Same outlet law enforcement uses to validate your driver's license if you are pulled over for a traffic violation), partnership will validate IDs.

In the first quarter of 2012 in North Carolina, 1834 stores reported through the NPLEEx system. There were 289 Law Enforcement users, 12,139 Law Enforcement searches, 1648 Law Enforcement watch hits, and 47,519 grams of pseudoephedrine blocked.

Any measure must be multi-state capable:

- NPLEEx is seamless across state lines and chains.
- NPLEEx blocks sales at EVERY retailer.
- Law Enforcement can see data from EVERY retailer.

At the conclusion of Mr. Acquisto's presentation he offered to answer any questions.

Representative Horn: Why do we have more arrests, more problems? We are not reducing this at all.

Mr. Acquisto: He believes that we are reducing the problem. He referenced Director Shaw talking about finding the meth labs using NPLEx or any other tool, arresting the cooker, which has prevented an enormous amount of methamphetamine from being made by the person you have incarcerated.

Rep Horn: Is North Carolina using the NPLEx system to flag sales to convicted meth abusers?

Mr. Acquisto: To block? No, North Carolina is not.

Representative Horn: Has North Carolina identified locations that sell an unusually high quantity of pseudoephedrine?

Mr. Acquisto: In other states it has been done. There are stores that have a high amount of sales. Those are the stores where law enforcement sit in the parking lot and intercept the purchasers and make a lot of arrest. They are able to do that because of the NPLEx system real time reporting.

Representative Horn: What are we not doing in North Carolina that we should be doing that improves enforcement?

Mr. Acquisto: That is really a question for Director Shaw and law enforcement officers in this state. The system is capable of delivering that information. It is up to the law enforcement officers to do the searches.

Susan Sitze: With the way the system is set up, can any law enforcement officer that is on the system pull the store reports?

Mr. Acquisto: Absolutely

Susan Sitze: If we wanted to block people who are convicted of methamphetamine offenses we would have to have the law set up for North Carolina.

Mr. Acquisto: That is correct

Representative Horn: The statement that the system can give us any information we need does not help us to determine what we need to know. What should we know based on your experience of a Law Enforcement Officer and Vice President of Government Affairs for Appriss? Who is doing it better than we are and what are we not doing that we should be?

Mr. Acquisto: You have hit on the next steps, that being blocking meth offenders. Other states look at the stores with the highest volume and look at the people that have been blocked multiple times. The officers look at the person that bought Monday, Tuesday, were blocked on Wednesday, and then went back 30 days later to do the same thing. That is the person they

interview because that is the smurfer. These are most likely the steps that the North Carolina officers are doing. Some states have limited the annual amount of grams. If you do the annual limits you will still be able to serve the people that are buying for cold purposes.

Representative Faircloth thanked Mr. Acquisto for his presentation.

Representative Faircloth introduced David Hitchens, President and CEO of Advanced Environmental Options, Inc. (AEO), located in Spartanburg, SC.

Mr. Hitchens advised that he would be speaking about the cleanup of the labs, the different types of labs, and the things that they see. AEO is a private organization. They are the federal contractor for the DEA in North and South Carolina for the cleanup of all meth labs that are found throughout the states. AEO and Mr. Hitchens hold a VEA license for reverse distributorship out of their Spartanburg location for controlled narcotics to be in their possession for ultimate destruction.

(Attachment 6) David Hitchens Presentation: Methamphetamine Labs, Advanced Environmental Options, Inc. AEO

AEO is the DEA contractor for North Carolina. They are only the contractor for the precursor chemicals that are found at the meth lab. There is not a state or federal law for the cleanup of the residence after the precursors have been removed.

What is Meth? Methamphetamine is a powerful, highly addictive stimulant. The different forms of meth are powder, rock, tablets, and ice/crystal meth. Street Names for Meth are Crank, Speed, Ice, Crystal, Tina, Glass, and Chalk. Meth can be smoked, snorted, swallowed, or injected.

What is a meth lab? A meth lab is a clandestine drug lab that is a collection of materials and ingredients used to make multiple forms of Methamphetamine. It is made mostly from common household ingredients. These ingredients are mixed and cooked together to make meth and the harmful chemical mixtures can remain on household surfaces for months or years later. There may be health effects in people exposed to chemicals to make meth before, during and after the process. Each lab is a potential hazardous waste site, requiring evaluation, and possibly cleanup, by hazardous waste professionals. Meth labs have been discovered in hotel and motel rooms, restaurants, barns, private homes and apartments, storage facilities, fields, vacant buildings and (moving or stationary) vehicles. A minimum of 5 to 7 pounds of chemical waste are produced for each pound manufactured. Methamphetamine is a member of the phenethylamine family, which includes a range of substances that may be stimulants, entactogens, or hallucinogens.

Mr. Hitchens displayed a list of common household items used to manufacture meth. Representative Murray asked if any of those items had been restricted like pseudoephedrine. Mr. Hitchens answered no. He stated that not all of the products displayed were necessary. It depends on the recipe. Representative Horn commented that the only common ingredient that you have to have is pseudoephedrine. Mr. Hitchens confirmed that statement. Red Phosphorous Labs, also known as "Red P" labs, are most known for the abundance of matches. Cooks often, if not always, use matches for the phosphorous. True Red P Labs are

becoming less common in terms of cooking method due to the rise of the One Pot Method. Although true Red P cooks are becoming less of a problem, the complexity, hazards, and scope of work has not changed. Commonly found chemicals in these labs are Red Phosphorous, Hydrogen Peroxide, Organic Solvents (Camp Fuel, Gasoline, Acetone, Toluene, etc.), Hydrochloric Acid, Sulfuric Acid, and various forms of Iodine (crystals, tincture, and solution). Many cooks do NOT retain many of the original containers the chemicals were purchased in. Due to the unknown factor, a lab technician must take extra precaution when testing and identifying each of these unknowns.

Anhydrous ammonia labs, also known as “Nazi” labs, are particularly dangerous due to the fact that the cook is using a deadly gas called Anhydrous Ammonia. Whether it be from a local farmer or producing the gas via Ammonium Nitrate from cold-packs or fertilizer, the gas procured is deadly via inhalation therefore extra respiratory protection is required. Commonly found chemicals associated with these types of labs are: Hydrogen Peroxide, Sodium Hydroxide, Ammonium Nitrate (from cold-packs or fertilizer), Anhydrous Ammonia, Organic Solvents, and rock salt. Anhydrous ammonia stored in improper containers, such as propane cylinders, are especially dangerous. The ammonia gas corrodes the inner lining of the cylinder resulting in severe loss of container integrity. It also corrodes the valve, also known as the head of the cylinder, making it a very dangerous item to handle. Due to this corrosion, the cylinder can either explode from the pressure build up or blow the valve off, resulting in the cylinder rocketing off at a high velocity. Careful inspection of the cylinder from a safe distance must be done FIRST before actually handling the item. Once it is deemed safe to proceed, the gas inside must be bled off into a drum of water.

One pot labs are potentially the most simplistic lab type of all. This simplicity is what leads them to be the most dangerous cook method. The reason the danger level is so high for these labs is because the cooks mix all of the chemicals they have for cooking together into one or more bottles. This often leads to violent reactions that cause fires, explosions, and even fatalities. The primary hazard in these bottles is a water reactive substance called Lithium. Lithium metal, when coming into contact with water, ignites and can cause large fires in the surrounding area. Using a plastic bottle is much safer than using glass or metal. Mobile meth labs are very common in North and South Carolina.

While performing cleanup duties, they come across various items that are used for all of the different types of labs. These items are things like sharps, kitty litter, bodily fluids, and pills, which are extremely hazardous to your health and safety. Sharps such as knives, razor blades, syringes, scissors, broken glass, and serrated metal can puncture or cut through protective clothing. These items represent a serious hazard due to the possibility of them carrying viruses, bacteria, and/or diseases. Kitty litter is used to filter gases and vapors to make it safer for the cooks to continue their work. These vapors and gases though, form a crust in the litter and when broken can lead to the release of phosphine gas. Phosphine gas acts much like cyanide in that it only takes a minimal amount of inhalation to kill you. Bodily fluids contain many of the same hazards that sharps do. Disease, bacteria, viruses, etc.... Proper personal protective equipment and common sense helps render the hazards nearly irrelevant. Pills are common in most labs. The most common pill found is Sudafed which contains pseudoephedrine. Also, hydrocodone and other controlled substances can be found in all the different types of labs.

What happens to your body when you take meth? At first it is Stimulant. You experience euphoria and rush, increased energy, decreased fatigue, sense of control. Then there is Weight loss. It suppresses the appetite; may increase metabolism. Meth use lowers inhibitions, increases libido, and impairs judgment, often leading to risky behavior. If meth is injected, you run the risk of infection from dirty needles. Given how meth impairs your judgment, there is also a risk of acquiring HIV, hepatitis, and STDs through promiscuous behavior. High doses of meth can elevate body temperature to dangerous, sometimes lethal, levels and cause convulsions. Long term effects are psychotic behavior including paranoia, auditory hallucinations, mood disturbances, and delusions. Hallucinations include “crank bugs” which is the sensation of insects creeping on or under the skin. Meth users pick at and scratch these areas to find relief which can create open sores that become infected.

Meth production causes major damage to the environment. Some of the chemicals used to produce meth have independent toxicity. When these chemicals are combined, they can have serious toxic and explosive effects. Every pound of meth produced can yield up to five pounds of toxic waste.

Many children are rescued from homes with meth labs or meth using parents. Meth, chemicals, and syringes are all within reach of children. Parents high on meth neglect their children. The mental, physical, and emotional consequences for the children can be severe.

Domestic Violence is very high among meth users. Their judgment is clouded and their relationships often revolve around meth. Domestic violence and child neglect often result from meth use.

According to statistics, the average life expectancy of a hard core meth addict is only five to seven years. The national average recovery rate for meth addicts is estimated to be between only 16- 20%. The psychotic effects of meth use can last years after cessation of meth use. The average meth "cook" annually teaches ten others how to make meth. A single episode of smoking meth in a residence produces sufficient airborne methamphetamine to contaminate 18,500 square feet of surface area in a home.

Meth labs produce hazardous waste. The cooks often pour left over chemicals and sludge down household drains, household plumbing, storm drains, or directly onto the ground. Solvents and other toxic byproducts used to produce meth pose long-term hazards because they can persist in the soil and groundwater for years. Americans consumed approximately 22 tons of methamphetamine in 2001, thereby introducing approximately 110-154 tons of hazardous waste into our environment. Currently there are no national standards or guidelines for the cleanup of meth labs because the methods used to make meth vary greatly. The EPA defers meth lab cleanup to the states, however, EPA representatives provide technical assistance to states and the agency is involved with several workgroups who are trying to answer the “how clean is clean” question. Many states have developed their own guidelines. North Carolina is one of them. Some states have also adopted cleanup guidelines for pollutants associated with meth production (e.g., volatile organic chemicals, mercury, lead). These cleanup guidelines are risk-based rather

than health-based because currently there is insufficient research available on the health effects of meth. Guidelines may be found in regulations, agency guidance, or policy.

There has been no level of contamination considered safe since there is no research available on the effects on humans at low levels of methamphetamine. The safe level is thus the detectable level. Methamphetamine, whether in an area where a cook, or use, has occurred, can readily become airborne both as a particulate and a vapor. It can thereafter settle on any flat surface and be picked up by passersby or re-aerosolized and inhaled. This is most important where toddlers and young children are present.

Mr. Hitchens recommendation for the only way to eliminate the meth problem and the costs that are associated with it is to make pseudoephedrine a prescription drug. It is the only way to get meth off the street and keep the rental homes and hotel rooms clean.

At the end of Mr. Hitchens' presentation he offered to answer questions.

Representative Horn: Is there a period of time that the contamination goes away?

Mr. Hitchens: No, it does not go away. It can be absorbed into the dry wall or sheetrock. You have to do an extensive cleanup for it to be removed.

Representative Mobley: Mr. Hitchens mentioned 18,000 square feet could be contaminated. Could two small houses side by side contaminate each other?

Mr. Hitchens: If there is air between them, no. If they are connected like in an apartment complex that shares air ducts then all apartments can be contaminated.

Representative Faircloth thanked Mr. Hitchens for his presentation.

Representative Faircloth stated that the committee needs to talk about prosecuting the meth cases. He introduced Alex Bass, the Chief District Attorney, Prosecutorial District 29A, for Rutherford and McDowell County. He worked for 12 years in Alamance County prosecuting cases until 2007. In that time he had 5 meth cases. None were labs, all were users. When he moved to district 29A, he had over 30 files on his desk of just meth labs in McDowell County. There has been a big decrease in his area for the last 5 years. Officers have told him that the log has helped. It has gotten rid of the major meth players. They also used aggressive enforcement. They used the logs and the high penalties that have been created to scare the users, such as Class C Felony for manufacturing. They also have a range of lesser penalties that help in the prosecution of it. They have pursued multiple charges on people which include conspiracy. Some of the biggest dealers and toughest labs they have had have been taken federally through the western district. They are seeing more of the one pot labs or shake and bake method as opposed to full labs. The number one problem in the prosecution of meth makers is the back log of cases that they have. The back log is coming from several different things. One, officers are overwhelmed with property crimes. They have more time to spend on those since meth cases are down. The second thing in the backlog is the defense attorneys are not taking the cases until they receive a lab report. Some of the cases can be pleaded out in district court felonies and

usually they are doing those without a full set of reports. But if that route is not taken, you have to wait for the SBI report and attorneys are not accepting the case until the report is received. These two things combined are making their backlog larger. Mr. Bass asked the officers what they would like to see different. Most said make pseudoephedrine a scheduled prescription controlled substance. They are seeing other prescription drugs taking the place of meth. They are encountering more people with hydrocodone and oxycodone problems which are prescription drugs. It would be helpful to the DA's to be able to track those types of drugs. They see the prescription hoppers going from store to store.

At the end of his presentation, Mr. Bass offered to answer questions.

Representative Horn: We are looking for some suggestions and guidance from the DA's. The trial attorneys are stretching everything as far as they can. Is there something that the Legislature can do clarify the law as to simplify that landscape for you, the court systems, as well as protecting the rights of the individual, but still move this stuff along?

Mr. Bass: They are seeing less of plea bargaining now. The only way around that is to somehow reassure them that it is not going to be an ethical violation for the person to take a plea when everybody has done it. He suggests a waiver form for the defendant. They could put on record in the courtroom that they know you have not gotten all the reports, but the DA has offered a plea negotiation that the defendant wants to accept without the need for a lab report. It waives all rights to a lab report. If they had a law like that maybe lawyers would feel they were not going to be subject to an ethical violation.

Representative Horn: I am not sure that is a legislative process. When the people plead out how many of them go right back to what they were doing before? What is being done to deal with reducing the use of these drugs?

Mr. Bass: Officers have a good idea of who is doing what. He has not seen many of the meth manufacturers come back. What he does see come back is the meth users and the addicts. Those are the people using the one pot method.

Representative Horn: Based on the testimony earlier, most people are cooking for self-use. Therefore the cook is the user most of the time. I read in an article with the Justice Reinvestment Act we are not incarcerating as many drug users as we used to. More are going on probation which has improved the supervision options for probation officers. The suggestion was made that someone who is either convicted or taken a plea on a drug conviction be required for 2-3 years to call the local Sheriff's department every day. They would have a color or number assigned to them, and when their number is chosen they must come in within the hour for a drug test. If they are found using, they go straight to jail. This has helped in dealing with the frequent users. Would that make any sense?

Mr. Bass: It would. They have seen that same affect in the drug court. That is what they do. The people are tested 3-4 times a week which does not give them any window for the drug to get out of their system. You will get caught if you are using. More drug testing is needed.

Representative Faircloth asked if there were any other questions, then thanked Mr. Bass for his presentation.

Representative Faircloth introduced Assistant District Attorney Kyle Smith of Burke, Catawba, and Caldwell Counties. Mr. Smith prosecutes narcotics cases in Catawba County and handles their drug treatment court program. Some things he would like for the committee to consider are the amounts of meth in the air where there are contiguous units together. Folks are doing making and using meth in hotels and apartments. That is a problem. We have law enforcement officers that come in and see a fire but do not know this is a meth lab. They go in and become contaminated. He would like a drug trafficking statute where they have a mandatory punishment other than a Class C felony. He stated that he realizes that jails are full and the space is limited. He complimented the SBI by stating that we have great SBI agents and analyst working for the state. If you can show someone manufacturing meth is dangerous to the community, you can hold them without bond. That can help if are waiting for a lab report. That is a great tool because is if they are in jail, they are not out making meth. His stated that the smurfers are switching driver's license to go buy pseudoephed. Possibly the Legislature could write a law that would make that a prohibition under Chapter 90, and would link that back to meth manufacturing or distribution of methamphetamine. That would be a useful tool to have.

He asked if anyone had questions.

Representative Murry: Please talk about aggravating factors when children are present.

Mr. Smith: There is an aggravating factor for that. He would prefer that if it is within a 1000 feet of a school that automatically elevates it from H felony up to an F felony. He would like to see higher than an F felony. A tool like that when working a meth case where children are present would be helpful.

Susan Sitze: She would like to clarify what was said about using someone else's driver's license. If you find out someone has used a different persons driver's license to purchase pseudoephedrine, you would be able to link that back to the manufacturing as far as the charge goes?

Mr. Smith: Yes. Or, if I give you my driver's license and you use it that is willful blindness. That is the same as someone who is borrowing it from the other person.

Hal Pell: Clarify penalties for pseudoephedrine. Because it is not a scheduled drug right now, we are back on the sentencing tables not in Chapter 90 which would give more severe penalties. First question is if this was a scheduled substance that would put it into Chapter 90 penalty structure which potentially would mean more severe penalties. Is that correct?

Mr. Smith: It could be depending on how you put it in the schedule.

Hal Pell: That is what I am saying. It could be a change just by nature of where it is regulated in the chapter of the penalty structure.

Mr. Smith: Yes

Susan Sitze: Just to clarify, methamphetamine is in Chapter 9, pseudoephedrine is not.

Mr. Smith: Correct. It is just immediate precursor chemicals. Not just using meth is the problem. It is property crimes and everything that is related to it.

Representative Faircloth thanked Mr. Smith for his presentation.

Representative Faircloth stated that the last item on the agenda is potential legislative recommendations. Representative Horn reminded the committee that from the last meeting we had two issues that we were going to recommend for action in the coming short session. They have to do with clarifications dealing with the existing law. We split these into two separate pieces that were emailed to each member. He asked Susan Sitze to explain each summary.

The first one is SAz21, Pseudoephedrine Record Keeping Clarification. This would remove the requirement that you have this language where the person is signing when they buy the pseudoephedrine. This portion of law requires that it be there. If you are signing on the electronic pad it requires that it be part of the electronic thing. This would remove that requirement. It does not remove that they have a sign that explains all this, it just removes the requirement that it be on the electronic device that you are signing.

Questions about the first draft?

Representative Horn: This is just removing the redundancy because the information is there and you are acknowledging by signature that you read the information.

Susan Sitze: Yes, that is correct.

Representative Faircloth asked Representative Murry if that sounded good to him.

Representative Murry: He said this helps. It removes dramatic paperwork for the pharmacies.

Representative Horn moved to recommend this to the General Assembly in the short session.

Representative Faircloth noted the motion to recommend and asked the committee to vote. The movement passed.

Susan Sitze introduced the second bill SAd22. The current law in North Carolina says you cannot purchase more than 2 packages containing a combined total 3.6 grams per day or more than 3 packages containing combined total of 9 grams per 30 day period. The federal law is the 3.6 grams per day and 9 grams per 30 days. North Carolina added the packages. The bill would remove the package requirements. It depends on the type of pill you are getting. If you are getting a 24 hour pill one 15 count box is 3.6 grams. You would only be able to buy one of those a day, two of those a month. That would be a 30 day supply, because it is a 24 hour pill. If you are buying the 12 hour cold medicine, you can buy three 10 count boxes a day. If you buying the

4-6 hour it takes six 20 count boxes to get to 3.6 grams. It depends on what you are getting as to how much reaches 3.6. This bill would remove the package requirements. The original law as it was enacted in North Carolina did have this package language, but 3.6 grams was originally 6 grams. North Carolina lowered the 6 to 3.6 when the federal laws came down. This would remove the package level and just put it to the gram level, so the number of packages would fluctuate.

Representative Stevens: Would there be any validity to add in the bill that someone could get 108 grams per year? Is there some reason we could not limit it annually.

Representative Faircloth asked Representative Murry to answer that. He also stated that he had an appointment and asked Rep Horn to take over the meeting.

Representative Murry: If you are under 18 you cannot purchase. If you are a parent purchasing for a family you could reach the limit early and would need a prescription.

Representative Mobley: Do the corner grocery stores sell pseudoephedrine?

Representative Horn: No, it must be a pharmacy. It is behind the counter.

Susan Sitze: When talking about that issue, we are talking about children. The liquid form is not regulated. Small children could take the liquid form.

Representative Horn stated that the purpose of this discussion was to clarify that part without changing what is already in place. The conflict is with packages and grams. Representative Horn reminded the committee members that it is a two year committee. The committee will reconvene after short session and continue to work on further actions by the legislature so that we can enhance our ability in this state to deal with methamphetamine abuse.

Representative Horn entertained a motion to recommend this on to the General Assembly for the short session. The motion passed.

Representative Horn listed some of the issues that have arisen after testimony heard in the committee. Some on his list are working with NPLeX or some legislation to block sales to convicted offenders. We talked about a system for removing the lien on homes that have been contaminated with meth. If there is process and a standard for clean up once that threshold has been achieved it would be fair that the lien is removed for the benefit of the property owner. There has been discussion about making pseudoephedrine containing medications prescription only. These are all additional issues.

Representative Tolson suggested the Legislature explore potential problems making pseudoephedrine prescription only could create. One of the presenters indicated that if we made it prescription it would help reduce the meth problem. Representative Horn stated that he has been advised that there is a recently developed medication that utilizes the same quantities as pseudoephedrine and produces the same results, but you cannot make meth out of it. Maybe that is something to consider.

Representative Mobley stated that she is concerned about removing the lien on a home that was used to make meth. She thought she heard one presenter say that you cannot clean it up.

Representative Horn stated that it may depend on the types of building materials. He believes we should investigate further to protect the public as well as the property owner. What makes reasonable sense to protect both the citizen and the property owner? Another issue discussed was the possibility of raising the threshold on what amounts to aggravating factors. Or lowering the threshold on what amounts to trafficking or manufacturing. There was an idea of some way of dealing with the small number of people that create the greatest number of problems.

Representative Tolson suggested conducting training for the rescue people that rush into the meth buildings. He suggested that they get some kind of training on how to recognize that they could be dealing with a meth fire. Possibly make a suggestion from this committee that the Fire Association take a look at conducting more training.

Representative Mobley is concerned about the students from various schools who are out keeping the roads clean in certain areas. They are not warned about hazardous things that can be found on the road. That is a real problem.

Representative Horn thanked everyone for attending and adjourned the meeting.