

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

Anchorage, Alaska

July 14, 2010

1:19 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Carl Gatto
Representative Bob Lynn
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Bob Herron
Representative Nancy Dahlstrom (Resigned 5/31/10)

OTHER LEGISLATORS PRESENT

Representative Peggy Wilson (via teleconference)

COMMITTEE CALENDAR

OVERVIEW(S): THE EFFECT OF METHAMPHETAMINE LEGISLATION PASSED
IN 2006

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

RICHARD SVOBODNY, Deputy Attorney General
Central Office
Criminal Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Presented the overview regarding the effect
of the methamphetamine legislation passed in 2006.

AUDIE HOLLOWAY, Colonel, Director
Central Office
Division of Alaska State Troopers

Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Assisted with presenting the overview regarding the effect of the methamphetamine legislation passed in 2006.

KEITH MALLARD, Captain, Commander
Alaska Bureau of Alcohol & Drug Enforcement (ABADE)
Division of Alaska State Troopers
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Assisted with presenting the overview regarding the effect of the methamphetamine legislation passed in 2006.

SAM EDWARDS, Deputy Commissioner
Office of the Commissioner - Anchorage
Department of Corrections (DOC)
Anchorage, Alaska

POSITION STATEMENT: Assisted with presenting the overview regarding the effect of the methamphetamine legislation passed in 2006.

VIKI WELLS, Behavioral Health Specialist
Southcentral Regional Team
Treatment & Recovery Section
Division of Behavioral Health (DBH)
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Assisted with presenting the overview regarding the effect of the methamphetamine legislation passed in 2006.

JOAN HOULIHAN, Health Program Manager II
Anchorage Regional Team
Treatment & Recovery Section
Division of Behavioral Health (DBH)
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Assisted with presenting the overview regarding the effect of the methamphetamine legislation passed in 2006.

MELISSA WITZLER-STONE, Director
Central Office
Division of Behavioral Health (DBH)
Department of Health and Social Services (DHSS)

Anchorage, Alaska

POSITION STATEMENT: Assisted with presenting the overview regarding the effect of the methamphetamine legislation passed in 2006.

ACTION NARRATIVE

[1:19:10 PM](#)

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at 1:19 p.m. Representatives Ramras, Gatto, Lynn, Gruenberg, and Holmes were present at the call to order. Representative P. Wilson (via teleconference) was also in attendance.

Overview(s): The Effect of Methamphetamine Legislation Passed in 2006

[1:19:45 PM](#)

CHAIR RAMRAS announced that the only order of business would be an overview regarding the effect of the methamphetamine legislation passed in 2006. He mentioned that the committee would be producing a report containing recommendations for the administration and the legislature regarding the issue of methamphetamine abuse.

CHAIR RAMRAS then turned the gavel over to Representative Gatto.

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RICHARD SVOBODNY, Deputy Attorney General, Central Office, Criminal Division, Department of Law (DOL), after mentioning that members' packets contain a report compiled by the DOL regarding the methamphetamine legislation passed in 2006 - House Bill 149 - provided some historical information about methamphetamine. Methamphetamine causes a lot of problems, he then went on to say, both for the individuals abusing it and for the environment. It is a very addictive drug - one of the most difficult to quit, harder even than heroin. As a central nervous system stimulant, it immediately affects a person's heart rate, blood pressure, body temperature, appetite, attention span, moods, and emotions - essentially acting as a very dangerous neurotoxin - and increases a person's energy and affects his/her sexual desires. On the latter point, there are several studies which link methamphetamine abuse to sexual assault and sexual abuse of children crimes, and this is due to

the effect of methamphetamine on the abuser's sexual desires. Furthermore, child neglect and identity theft are crimes that abusers of methamphetamine are disproportionately found to be guilty of.

MR. SVOBODNY went on to explain that House Bill 149 effectively dealt with the environmental issues associated with the manufacture of methamphetamine, which is a completely synthetic drug that is easy to make, with the major active ingredient being ephedrine or pseudoephedrine - commonly found in cold remedies. Under House Bill 149, such products are now required to be kept behind the counter and their sales kept track of and reported, which makes them substantially more difficult to acquire in sufficient enough quantities to make methamphetamine. What makes the manufacture of methamphetamine really dangerous, he explained, is that it requires the use of various [toxic] chemicals such as red phosphorus; iodine; lithium metals - which can burst into flames when not stored properly; and anhydrous ammonia - which can absorb water out of a person's body - to name a few. With regard to the latter chemical, people - including children - staying buildings where methamphetamine is being manufactured lose the fluids in their bodies, with their eyeballs being the first to get depleted.

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MR. SVOBODNY relayed that one can now obtain formulas on the Internet showing how to manufacture methamphetamine using a plastic soda-pop bottle, thereby allowing one to make methamphetamine in a moving vehicle, for example, and this has led to several automobile accidents when the plastic bottle has melted through as a result of the manufacturing process. Although such is not yet happening in Alaska, it does illustrate how easy it is to make methamphetamine, and so some law enforcement officers are concerned that such could become the practice here. He indicated that there are now fewer methamphetamine laboratories in the state because of House Bill 149's requirements that retailers keep products containing ephedrine and pseudoephedrine behind the counter, in more secure locations, and [that such products not be sold to people under 16 years of age, and which imposed limitations on the amount of such products that could be purchased by any one person within a 30-day period]. Methamphetamine laboratories have mainly been a problem in the Matanuska-Susitna ("Mat-Su") valley, and folks in the district attorney's office in Palmer have formed a consensus that House Bill 149 has helped significantly reduce the number of such laboratories; the bill's increase in sentences could be

one of the reasons for that reduction, as could some specific training for police officers that took place about the time of the bill's passage.

MR. SVOBODNY said that according to statistics included in members' packets, in the year prior to passage of House Bill 149, there were 37 methamphetamine related seizures, and 76 cases filed involving violations of AS 11.71.020(a)(2)-(6), whereas last year there only 8 such seizures and 14 such cases. He indicated that federal legislation addressing methamphetamine precursors has resulted in similar significant decreases across the country. Regardless of these statistics, however, methamphetamine abuse is still a huge problem in Alaska, and has terrible effects, not only on the individuals who abuse the drug, but on the children who suffer neglect and sexual abuse at their hands. Another issue to consider, he relayed, is that now that it has become more difficult to make methamphetamine in Alaska, importation from Mexico has increased, and therefore the number of law enforcement officers may need to be increased in order to improve interdiction efforts. He mentioned that when people were manufacturing methamphetamine on their own, laboratories were blowing up, and houses that were being used as laboratories had to be demolished due to severe chemical contamination. The downside to reducing such incidents, however, is that now people are getting imported methamphetamine in more concentrated forms.

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AUDIE HOLLOWAY, Colonel, Director, Central Office, Division of Alaska State Troopers, Department of Public Safety (DPS), concurred that back when a lot of people were making their own methamphetamine, several of the homes being used as laboratories burned down. Furthermore, the walls and flooring materials - and sometimes even the ground itself - of the homes that were used as methamphetamine laboratories would become saturated with hazardous chemicals, and yet young children could often be found living in those homes, crawling around on the floor. He, too, offered his belief that House Bill 149 has been instrumental in significantly reducing the number of methamphetamine laboratories in Alaska, surmising that had that legislation not been in effect these last few years, the number of laboratories would have instead increased, along with the problems associated with methamphetamine abuse and manufacture, problems such as domestic violence (DV), shootings, and robberies. On the issue of decontamination and hazardous-materials removal, he noted that local law enforcement agencies get a lot of much-needed

help from the federal Drug Enforcement Administration (DEA). In conclusion, he indicated that the importation of methamphetamine into Alaska from Mexico is now the next big problem law enforcement agencies must deal with.

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KEITH MALLARD, Captain, Commander, Alaska Bureau of Alcohol & Drug Enforcement (ABADE), Division of Alaska State Troopers, Department of Public Safety (DPS), indicated that by restricting the placement and sale of products containing ephedrine and pseudoephedrine, House Bill 149 essentially provided law enforcement agencies with the ability to stop some methamphetamine manufacturers prior to a methamphetamine laboratory actually being set up; a newspaper article in members' packets illustrates that the bill's provisions requiring retailers of products containing ephedrine and pseudoephedrine to keep a log of the sales of such products allowed law enforcement officers to identify a methamphetamine manufacturer prior to production. Methamphetamine abuse is continuing to cause tremendous problems in Alaska. However, with the use of federal tax monies, the DPS has sponsored training for other law enforcement agencies regarding methamphetamine laboratories, although a lack of personnel at the municipal level has resulted in some municipal law enforcement agencies having to rely heavily upon the work of State law enforcement agencies. He, too, noted that methamphetamine importation from Mexico has increased since the number of local laboratories has decreased.

CAPTAIN MALLARD concurred that there is concern that people will start manufacturing methamphetamine using plastic soda-pop bottles, and again indicated that House Bill 149's provisions requiring retailers to keep track of and limit sales of products containing ephedrine and pseudoephedrine have been very helpful to law enforcement officers in identifying methamphetamine manufacturers.

REPRESENTATIVE GRUENBERG, referring to the aforementioned problem of methamphetamine importation, suggested that Alaska's conspiracy statute - AS 11.31.120 - might be of use with regard to prosecuting and convicting methamphetamine traffickers. He acknowledged, though, that unless statute is amended, AS 11.31.120 couldn't currently apply towards a crime that is only a class C felony, which is the case for House Bill 149's AS 11.71.210 regarding the purchase or receipt of restricted amounts of certain listed chemicals.

COLONEL HOLLOWAY said he would research that issue further.

CAPTAIN MALLARD, in response to a question, acknowledged that some of the statistics provided in members' packets might be incomplete. In response to other questions, he indicated that methamphetamine traffickers are using both covert means of transportation and legitimate carriers to get the drug into Alaska, and that as demand for the drug increases, traffickers continue to find many ways of supplying that demand. In conclusion, he relayed that the ABADE sized approximately 1,027 grams of methamphetamine in 2005, approximately 7,800 grams in 2006, approximately 4,000 grams in [both 2007 and 2008], and approximately [16,000] grams in 2009. These figures illustrate the increases in methamphetamine importation and demand for the drug.

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SAM EDWARDS, Deputy Commissioner, Office of the Commissioner - Anchorage, Department of Corrections (DOC), concurred that since passage of House Bill 149, there has been a reduction in the number of methamphetamine laboratories operating in the state. However, just as such sites are heavily contaminated with hazardous chemicals, so too are the people who get arrested for the manufacture of methamphetamine, and therefore the DOC must deal with the contaminated personal effects of such offenders. After the passage of House Bill 149, the number of offenders incarcerated for methamphetamine crimes initially went down but has since been increasing, probably, he surmised, due to the increase in methamphetamine importation. Furthermore, because methamphetamine abuse and manufacture has such severe impacts on a person's body, the DOC has noticed an increase in its medical, transportation, and supervision costs - a drain on the DOC's limited resources. Nonetheless, House Bill 149's reduction in the number of methamphetamine laboratories in the state is a considerable accomplishment, he remarked, adding that his wife, who works as a child advocate, recounts almost daily the terrible impacts methamphetamine exposure has had on the children she serves. The DOC, in contrast, must address visitation and custody issues revolving around parents incarcerated for methamphetamine abuse and manufacture.

REPRESENTATIVE GATTO offered his belief that House Bill 149 has accomplished its stated goals.

MR. EDWARDS, in response to questions, reiterated some of his earlier comments, indicated that he may have more statistics available soon, and relayed that the DOC isn't getting any financial assistance with regard to its increased medical costs.

CAPTAIN MALLARD, in response to a question, explained that not everyone importing methamphetamine from Mexico is a Mexican national.

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VIKI WELLS, Behavioral Health Specialist, Southcentral Regional Team, Treatment & Recovery Section, Division of Behavioral Health (DBH), Department of Health and Social Services (DHSS), said that early on, the DBH recognized that methamphetamine constituted a potential problem, and so began preparations to assist communities and treatment providers across the state to address the issue of methamphetamine abuse. In 2004, the DBH added an addiction specialist to its staff, and that specialist began researching the best practices by which to treat those addicted to stimulants, and developing educational materials for treatment providers; these efforts are ongoing. The DBH has since provided statewide training on methamphetamine pharmacology, prevention, intervention, and treatment, and has since arranged for 10 treatment providers to attend in-service training in California regarding effective methamphetamine treatment, and now provides training within communities. Since fiscal year 2007 (FY 07), the DBH has provided over 300 "evidence-based methamphetamine-treatment training manuals" to treatment providers across Alaska at no cost, and will continue to do so.

MS. WELLS noted that the DBH continues to provide consultation and technical assistance to treatment providers as needed regarding the treatment of methamphetamine abusers, and maintains a small resource library containing free materials available to both treatment providers and members of the public. In conclusion, she explained that all DBH grantees funded to provide [substance abuse] treatment are expected to provide, and are capable of providing, treatment for methamphetamine abuse and dependency.

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JOAN HOULIHAN, Health Program Manager II, Anchorage Regional Team, Treatment & Recovery Section, Division of Behavioral Health (DBH), Department of Health and Social Services (DHSS),

added that according to the Alaska Automated Information Management System (AKAIMS), [4,137] individuals received substance abuse treatment in FY 08; [5,175] in FY 09; and [4,906] to date in FY 10. Furthermore, there has been a 15 percent rise since 2008 in the number of individuals receiving treatment whose primary drug of abuse is methamphetamine. This increase in the number of methamphetamine abusers receiving treatment, she ventured, may stem from passage of House Bill 149, because with methamphetamine abuse, it is usually only those who are apprehended who voluntarily undergo treatment. In response to a question, she explained that there can be quite a lag between the time a person is arrested for a crime involving methamphetamine and the time he/she starts treatment, which is when the DBH begins accounting for that person.

MS. HOULIHAN, in response to questions and comments, indicated that she would research statistics regarding how successful various forms of treatment are; that the waiting list for treatment can be long, just as it can be for the treatment of other drug addictions; and that the most successful forms of treatment for methamphetamine addiction are those which are long term and which restrict a person from leaving the facility.

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MELISSA WITZLER-STONE, Director, Central Office, Division of Behavioral Health (DBH), Department of Health and Social Services (DHSS), added that the treatment providers [Ms. Wells referred to] are capable of providing the extensive treatment necessary for success.

MS. HOULIHAN offered her understanding that not much money was spent on the aforementioned training.

COLONEL HOLLOWAY, in response to another question, indicated that law enforcement protocols for dealing with methamphetamine abuse and manufacture are not addressed at the academy level, but are instead part of an officer's advanced training. In response to another question, he suggested that the legislature consider the steps that Oregon has taken, and get input from the Alaska Board of Pharmacy. He opined that law enforcement must continue to make criminal cases against methamphetamine traffickers because as long as a profit can be made, the problem will only get worse. However, pursuing such traffickers comes at a cost, and so law enforcement agencies are going to have to either change workload priorities or obtain more resources.

Furthermore, there should be a balance between enforcement efforts and education efforts.

MR. SVOBODNY added that in general, the legislature has given the DOL the tools it needs for the prosecution of "these cases," though those tools could be used more efficiently if there were also treatment programs available. He also suggested that a study of the various treatment programs specific to methamphetamine addiction might be warranted so that the focus could then be on those treatment programs that are proving to be successful.

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MR. EDWARDS indicated that when the legislature next addresses this issue, the DOC would be able to provide information about the treatment programs it currently has funding for, and again noted the DOC's increased medical, transportation, and supervision costs associated with incarcerated methamphetamine abusers.

MR. SVOBODNY, in response to a request, also agreed to research Representative Gruenberg's point regarding Alaska's conspiracy statute.

MS. WITZLER-STONE indicated concurrence regarding the importance of education efforts, adding that the DHSS - via the Office of Children's Services (OCS) - would be focusing its education efforts on parents who've lost custody of their children due to a problem with methamphetamine.

MS. WELLS, in response to comments, noted that methamphetamine was also a problem during the 1960s, and indicated that it's not unusual for people addicted to methamphetamine to also abuse opiates.

REPRESENTATIVE GATTO reiterated that the committee would be producing a report containing recommendations for the administration and the legislature regarding the issue of methamphetamine abuse.

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ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:55 p.m.