

**The Bill Blackwood
Law Enforcement Management Institute of Texas**

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A Cry for the Children

**Methamphetamine
and the
Environmental Effects on Children**

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**An Administrative Research Paper
Submitted in Partial Fulfillment
Required for Graduation from the
Leadership Command College**

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ABSTRACT

Clandestine laboratories and methamphetamine use grows in epidemic proportion, so does the risks to the children in the laboratories and in the communities. Methods to manufacture dangerous substances are discovered much faster than laws can be developed to hold those accountable for endangering children and communities suffering from the labs. Texas and other states are facing drug problems with methamphetamine in epidemic proportions. It is believed that the addition of a child endangerment law regarding the use of or the manufacture of a controlled substance or dangerous drug in the presence of a child will hold those accountable who endanger children. Consequently, it is believed that a new law will deter others from endangering children in this manner. Public servants in the North Texas area overwhelmingly support the need for changes in the current laws in Texas regarding child endangerment. The implementation of new laws regarding these hazards and the child endangerment issue would make those accountable for their acts of harming the children of Texas and deter future acts of this nature for fear of the severity of punishment.

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INTRODUCTION

Law enforcement officers, firefighters and other public servants find themselves as the front-line of defense for many children in their communities. As the clandestine laboratories and methamphetamine use grows in epidemic proportion, so does the risks to the children in the laboratories and in the communities. Methods to manufacture dangerous substances are discovered much faster than laws can be developed to hold those accountable for endangering children and communities suffering from the labs.

How can the perpetrators be held accountable for their indifference to the health risk and well-being of the children in the communities? One way to hold perpetrators accountable is the implementation of laws holding them accountable. Several states have implemented laws and procedures specifying what action will be taken in relation to handling incidents involving endangered children located in clandestine laboratories and households of illegal drug use.

According to the statistics compiled by EPIC (El Paso Intelligence Center) there were 15,353 labs reported in the year 2002. Out of these reported labs, 3,167 children were present. Of these 3,167 children, 26 were injured and 2 were killed. These statistics are of the laboratories found and reported to EPIC. It is unknown exactly how many children are affected in labs that are undiscovered in motel rooms or other areas where labs were removed prior to their discovery.

The National Jewish Medical Center (2004) is currently conducting studies, with the assistance of other agencies, to collect data on the amount of chemicals released during the manufacture of methamphetamine and the chemicals remaining at the location when the laboratory is removed. This data is important for several reasons.

One is that it gives officials the necessary documentation to substantiate concerns of chemical exposure in this kind of environment and determine how this exposure can affect humans.

It is more important to know how this data can be applied in other aspects. One aspect is ascertaining what chemicals children will be exposed to in this kind of environment and detecting the levels of exposure. This gives organizations such as DEC (Drug Endangered Children) and CPS (Child Protective Services) the evidence necessary to justify the removal of children from hazardous environments. This also leads to the need for law enforcement and other groups to evaluate the current laws and procedures related to children in drug labs.

Based on information and evidence retrieved from studies like the Jewish Medical Center's, there appears to be a need for change regarding laws relating to children being exposed to clandestine lab chemicals. The researcher reviewed studies and sought other resources to better evaluate the laws in Texas to see if changes are necessary. It is important for officials to continue research in areas related to protecting the children they serve. Children benefit from changes in law and so do law enforcement and society. Now is the time the children who can't be heard will have a voice. Now is the time for someone to cry out for these children.

REVIEW OF LITERATURE

Texas and other states are facing drug problems with methamphetamine in epidemic proportions. Methamphetamine is a powerful stimulant that gives users a high that lasts for several hours. Prolonged use causes the user to go from days to weeks without sleep. The use of the drug can cause hallucinations and extreme paranoia,

causing the user to become violent. Oklahoma Trooper Nikky Green was shot to death at the Oklahoma, Texas border by a man who was high on methamphetamine.

The national increase of clan labs is due to the simplified manufacturing methods and the addictive affects of the methamphetamine. EPIC (El Paso Intelligence Center) statistics reveal that seizures of clandestine laboratories have increased from 8,971 in 2000 to 15,353 in 2002. Even more alarming is the number of children residing in the labs, 216 in the year of 2000 to 2,023 in the year of 2002. The number of children actually affected in the year 2002 is 3,167. See appendix for official chart.

The number of clandestine laboratories appears to be decreasing in states that have implemented precursor laws making it more difficult to find the necessary ingredients. Oklahoma reports a 70% reduction in clan labs work in the last year. This has helped the Mexican drug cartels who are importing methamphetamine high in purity to meet the demand. Some of the Mexican methamphetamine seized in drug investigations in the North Texas area is so pure that it is classified as ICE, which indicates that it is over 80% purity of D-methamphetamine. Mira Oberman (2005) reported methamphetamine confiscation at the El Paso Border Patrol region rose from 11 pounds in 2000 to 706 pounds in 2003.

EPIC's statistics for Texas show a peak in labs at 619 in 2001 and a decline for 2003 with 449 reported labs. The statistics are compiled from law enforcement agencies that report a lab seizure to EPIC. The statistics do not show the number of actual labs seized by law enforcement and do not reflect the actual number of clandestine laboratories in operation. Some agencies have attempted rough estimates to determine how many laboratories may be in operation in their jurisdictions by

interviews with the manufacturers. Riverside County, California, DEC (2004) made preliminary observations from 1999 to 2002 and estimated that an average lab manufacturer will attempt to manufacture methamphetamine 48 to 72 times a year. Methamphetamine laboratories produce approximately 7 pounds of hazardous waste for every pound of product produced. These waste hazards are left at abandoned lab sites, dumped in dumpsters, poured down drains, dumped in rivers, ponds and lakes.

In a research overview for the New Mexico sentencing commission, Colby Phillips (2004) wrote "in 1998, General Barry R. McCaffrey, Director of the Office of National Drug Control Policy, stated that methamphetamine had become the United States primary drug threat" (p. 5). Phillips (2004) reported a study conducted by the US Department of Health and Human services revealed that 12 million people over the age of 12, 5.3%, have used methamphetamine (p.5).

The dangers of clandestine drug laboratories are not always obvious to the eye. These dangers are not just physical but psychological as well. Children in a drug lab environment are at extreme risk to burns from flame (15% of drug labs are discovered due to fire) and accidental contact with needle sticks, harmful inhalation of vapors from chemicals, the ingestion of poisons, exposure to diseases, lack of food, absence of heat or air, the unavailability of running water, and other physical hazards.

In an article by Jill Miller in the Atlanta Journal-Constitution (2004), police discovered a 7 month old baby in its own waste. The baby was taken to the hospital where he later died due to neglect by the methamphetamine addicted mother. Ells, Sturgis, and Wright (2002) mentioned in an article written for the American Prosecutors Research Institute the following headlines from a Nebraska newspaper; "Meth-using

mother sleeps while her 17 month old son has his genitalia bitten off and eaten by a pit bull” and “A drug dealing mother uses her 1-year-old as collateral for meth” (p. 1).

Another article mentioned 2 Colorado mothers accidentally giving their babies, who later died, chemicals used for methamphetamine manufacture, because they were in mislabeled containers.

Hawaii has had problems with ICE methamphetamine for years. It is estimated that 550 to 600 newborn children arrive each year from ICE using mothers according to Sally Apgar (2003). Apgar also reported results of studies, conducted by Dr. Maria Iliana Stark, on 211 babies, over 8 years time who were born to ICE using mothers. The babies showed to be prone to premature birth and increased time in the hospital with greater chances for intensive care needs. The babies also demonstrate having an increased chance of suffering with learning disabilities later in life. These are just a few of the hazards that newborns may face when their caregivers use the drug as well as live in drug labs

The children undergo psychological problems due to neglect, violence and sexual abuse. Larry Oaks (2004), with the Star Tribune in Minneapolis, wrote about a paranoid mother abandoning her child in a freezing apartment when she stole a car and left town because she was under the influence of methamphetamine. Oaks also quoted Professor Ester Wattenberg saying “Could there be a more traumatic experience for a child?” when she described how authorities had to hose down children found in methamphetamine labs due to the toxic chemicals (p.3B). Wattenburg also advised that studies of Minnesota counties showed 31 to 81 percent of the child-protection cases handled involved methamphetamine. Also quoted by Oaks was Dr. Barbara Knox, a

Mayo Clinic pediatrician, who stated, “We are seeing cases of acute hepatitis and acute kidney damage in children coming out of these meth-lab homes” (p.3B).

The reports and news articles reviewed all gave examples of unsanitary living conditions and injuries and deaths caused by neglect or physical abuse brought on by the use of methamphetamine and the manufacture of methamphetamine. Katheryn Wells MD (2004), the Medical Director at the Denver Crisis Center, wrote “80 to 90 percent of caregivers in the child welfare system for child abuse issues have substance abuse as one of the major personal issues they face....In fact, children whose parents abuse drugs and alcohol are three times more likely to be abused and four times more likely to be neglected” (p.1).

A lot of articles were located with examples of children in drug labs or children with parents who abuse the substance. One source, National Jewish Medical Center, was identified as having conducted research on the amount of chemicals released during the manufacture of methamphetamine as well as documenting the amount of exposure when methamphetamine is smoked. The National Jewish Hospital and Research Center began conducting controlled experiments of methamphetamine manufacture, to monitor the amount of chemicals found in lab sites that children and first responders may be exposed to. Dr. John Martyny (2004) has written several articles on the results of these kind of tests and has made them public. Dr. Martyny conducted experiments of methamphetamine manufacture in locations such as houses and a motel, using various manufacturing methods to gain scientific data. This data allows officials to have controlled and accurate measurements of chemical levels present at different stages of the manufacture of methamphetamine.

Dr. Martyny (2004) and a research team also went to 16 suspected clandestine methamphetamine laboratories for study. Ten of fourteen labs tested positive for methamphetamine without any indications a methamphetamine laboratory existed (p.12). Test results also revealed high levels of contamination of the vents, countertops, furniture and other items. Dr Martyny advised, "The chemicals spread throughout the house. Children living in those labs might as well be taking the drug directly" (Phillips)(2004)(p.11). Studies done by several different agencies have revealed that over 30% of the children who are tested after removal from a lab test positive for methamphetamine.

The research and testing conducted by professionals around the country have compelled several states to implement laws defining the exposure of drug labs, illegal drugs or paraphernalia to children as child endangerment. Texas has a child endangerment law but has no special wording for exposure to drug labs or illegal substance. Currently in Texas the burden of proof is left to the prosecution to prove how these items are harmful to the child, rather than the elements of child endangerment already having been met as in other states.

Texas has an injury to a child law that must be proven in court. How the child was injured as well as what the mental culpability was at the time of the offense must be identified to determine the degree of the offense. Ilene Olson (2004) reports several states, such as Alaska, Arizona, Colorado, Iowa, Minnesota, New Mexico, North Dakota, Utah, Washington and Wyoming have changed laws or added laws regarding the use of an illegal drug and or manufacture of an illegal drug in the presence of a child. These changes and additions have proven to be invaluable in the effective

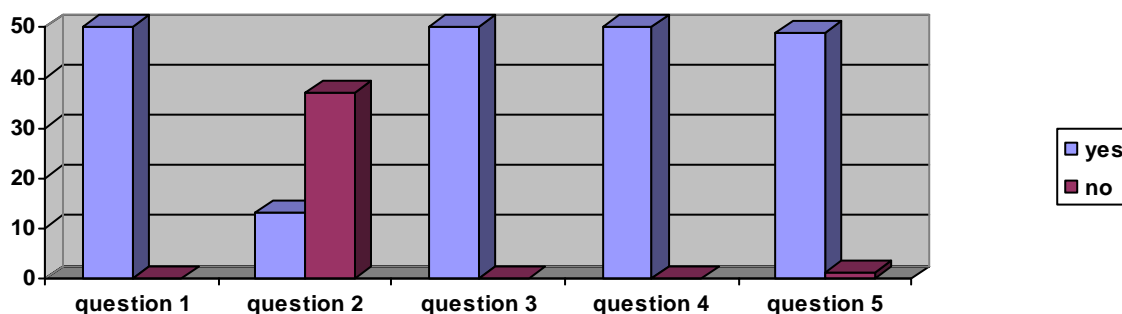
prosecution of those who endanger children with their manufacturing of illegal drugs. These laws ensure that the punishment for endangering children due to clandestine labs accurately fits the crime.

METHODOLOGY

Does Texas need to change or add laws to better serve the needs of the children in the state by making those who endanger children accountable in an effort to prevent further harm?

It is believed that the addition of a child endangerment law regarding the use of or the manufacture of a controlled substance or dangerous drug in the presence of a child will hold those accountable who endanger children. Consequently, it is believed that a new law will deter others from endangering children in this manner.

The researcher conducted a survey (appendix c) of public servants in local, state and federal agencies who have contact with children involved in clandestine labs and have knowledge of current Texas statutes related to child endangerment issues. The survey consisted of 5 questions (Appendix 3) regarding their views of the current situation of child endangerment and possession of methamphetamine laws in Texas. The survey asked if they wanted changes in the laws and also encouraged feedback. The survey was conducted in the North Texas area around the Dallas/Fort Worth metroplex by phone, email and personal interviews. The survey was intended to gather several different agency views as opposed to just one. A total of nine agencies participated in the survey with a make-up of two county, four city, two federal and one state.



Results of the survey are as follows:

1. Do you believe there should be a child endangerment law specifically for children exposed to clandestine drug labs? 50 Yes 0 No
2. Do you believe child endangerment should be the same punishment range as possession of less than 1 gram of methamphetamine? 13 Yes 37 No
3. Do you believe Texas should have a tougher punishment for those who expose children to clandestine drug labs as other states have done? 50 Yes 0 No
4. Do you believe using an illegal drug in the presence of a child constitutes child endangerment due to exposure or neglect? 50 Yes 0 No
5. Do you believe the laws in Texas are adequate for children who are exposed to clandestine laboratories or drug use in their presence? 1 Yes 49 No

The researcher assisted in a controlled methamphetamine manufacture controlled by the Jewish Medical and Research Center at a site in Collin County. The Dallas DEA Clan Lab Group 2, Dallas DEA chemists, Collin County Sheriffs Office, Melissa PD and Fire Department, as well as the Collin County Fire Marshall assisted in the project. Observation of the project revealed an organized and controlled experiment. Great effort was taken to ensure that accurate and realistic information would be obtained for researchers to evaluate. Details and results of the manufacture experiment may be

located in publications by the National Jewish Medical and Research Center as listed in the resource section.

FINDINGS

Several States across the nation have recognized the need for changes to existing laws and the implementation of new laws as they relate to one of the newest drug epidemics this country has encountered. In the 1980s the United States was faced with a crack cocaine epidemic. In the late 1990's and the early years of the 21st century the epidemic is methamphetamine.

What makes methamphetamine unique compared to the other drugs is the availability. Methamphetamine can be manufactured by using common items located in popular retail stores, agricultural supply stores and thefts from industry or farmers. Due to the popularity of methamphetamine today, outside sources in other countries are also importing it.

Do the current laws in Texas meet the needs regarding child endangerment issues associated with drug laboratories and the use of a controlled substance in the presence of children? Research indicates the answer is no. Current Texas statutes were reviewed regarding acts against a child and compared to the statutes that other states have established regarding children in drug laboratories. A review of professional studies and articles written by reputable sources was conducted in an effort to get objective answers to the question.

The first statute reviewed was Texas penal code 22.04, injury to a child, elderly individual or disabled individual. The statute, as it relates to a child, states that in order to meet the elements of the offense a person must either cause (a)serious bodily injury,

(b) serious mental deficiency, impairment or injury or (c) cause bodily injury. A child is defined as an individual who is 14 years of age or younger. The mental culpability is the primary factor as to what degree of offence a person is to be charged with. Nothing was found in this statute regarding controlled substances or clandestine laboratories as being prima fascia evidence meeting the elements of the offence.

The second statute reviewed was Texas penal code 22.041, abandoning or endangering child. To meet the elements of this statute as it relates to the endangerment issue are as follows. The child must be under 15 years of age and the person must either intentionally, knowingly, recklessly or with criminal negligence, by act or omission, engage in activity that places a child in eminent danger of death, bodily injury or physical or mental impairment. The punishment for this conduct is a state jail felony, which means a maximum of 2 years in a state jail and a \$10,000 fine. Nothing was found in this statute regarding controlled substances or clandestine laboratories as being prima fascia evidence meeting the elements of the offence.

The researcher reviewed Texas health and safety code 481.112, manufacture or delivery of substance in penalty group 1, which includes methamphetamine, and health and safety code 481.115, possession of a controlled substance in penalty group 1. It is a state jail felony if the person manufactures, delivers, possesses with intent to deliver or possesses less than 1 gram of a substance in penalty group 1. It is a 1st degree felony if the amount is over 4 grams and they manufactured, delivered or possessed with the intent to deliver the substance. A first degree felony is punishable at a minimum of 5 years and a maximum of 99 years in a state prison. Nothing was found in

this statute regarding the presence of children as an enhancement. There are drug-free zones that increase a penalty up one degree level.

Review of laws regarding child endangerment involving drug use or manufacture in other states was conducted. Wyoming enacted a law making it punishable up to 5 years in prison and up to a \$5,000.00 fine if a person allows a child to absorb, inhale or ingest methamphetamine; allow a child to remain in a place or vehicle the person knows is being used to ingest, sell, manufacture or store methamphetamine; or expose a child to the hazardous waste created by manufacturing methamphetamine.

Utah code Ann. 76-5-112.5, makes it a 3rd degree felony to have drugs or drug paraphernalia around children, a 2nd degree felony if a child is injured due to drug manufacture or use, and a 1st degree felony if a child is killed due to drug manufacture or use.

Other states that have implemented laws expanding the child abuse or endangerment statutes are Alaska, Arizona, Colorado, Iowa, Minnesota, Montana, New Mexico, North Dakota, Utah and Washington. Arkansas and Washington established new laws making it a separate criminal offense for exposing children to an illicit chemical substance.

Research has proven that drug use and the manufacture of drugs in the presence of a child is harmful. Public servants in the North Texas area overwhelmingly support the need for changes in the current laws in Texas regarding child endangerment. The burden is placed on the prosecution to prove this fact every time charges are challenged in court on child endangerment or injury to a child. A change in legislation would have the prosecution meet only the burden of the use of illegal

substances or the manufacture of illegal substances in the presence of a child to meet the elements of crime that compose child endangerment.

DISCUSSION/CONCLUSIONS

One of the most dangerous hazards faced by today's children is the manufacture and use of methamphetamine. The implementation of new laws regarding these hazards and the child endangerment issue would make those accountable for their acts of harming the children of Texas and deter future acts of this nature for fear of the severity of punishment.

A study was conducted of North Texas public servants who handle endangered children and illegal drug issues in order for an assessment of their beliefs regarding current Texas laws on child endangerment to be done. The results of the survey overwhelmingly supported the need for new laws in child endangerment. After extensive research it was determined that new laws or changes to current laws are needed. Any type of clandestine laboratory poses a danger to children, whether it is drugs, bombs or other weapons. The age limit should also be considered as any person younger than 18, instead of younger than 15. Texas family code recognizes 18 as an adult, not 15.

The study was limited to law enforcement and public service workers in the North Texas area. Other geographical areas are presumed to have the same thoughts based on articles researched from other areas of the state. The need for a diverse and well educated committee would be necessary to draft proposed legislative changes in an effort to accomplish the needed task. That necessary task is to implement legislation

giving law enforcement and other public service providers the authority needed to hold those accountable who endanger a community's children, elderly and/or disabled.

To limit the authority to just methamphetamine laboratories would limit the ability of public servants to protect their communities. It is important to consider all of the potential threats that children, elderly and disabled persons might face and address them as soon as possible. Methamphetamine laboratories make up about 90% of the clandestine laboratories reported. What is not known is what drug will take its place in the future and claim to be the new epidemic. That is why the laws should not be limited to one specific threat. Laws should encompass any future substance the Drug Enforcement Administration or the Texas Department of Public Safety declares a controlled substance.

Enhancing penalties for those who manufacture illegal substances in hotels, motels or other locations in which the public of all ages uses needs to be considered. Research shows methamphetamine and the chemicals used to manufacture it remain long after the manufacturer and the equipment is gone. Manufacturing methamphetamine and other substances is extremely dangerous to any person in the area during the time of the manufacture and after.

Rex D. Redden, the Assistant Chief of Police of the McKinney Police Department states, "I feel that endangering a child by using narcotics in their presence or exposing them to potential harm by the incapacitation of the caregiver or to the dangers of chemicals, more than adequately justifies the increase of punishment for the offender. The offender in this case makes a judgment decision to harm themselves, but they shouldn't place the child in danger to satisfy their own selfish habit. An example would

be someone who enjoys skydiving. A prudent person wouldn't even think about strapping their small child to them to jump out of an airplane because of the potential of injury or death to the small child. Basically, this is what the drug offender is doing by exposing a child to the drug culture and the dangers associated with it."

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Appendix #1

Taken from the ONDCP website statistics from EPIC

Number of Children Involved in Meth Lab-Related Incidents, United States

	2000	2001	2002	2003*
Number of incidents	8,971	13,270	15,353	14,260
Incidents with children present	1,803	2,191	2,077	1,442
Children residing in labs	216	976	2,023	1,447
Children affected**	1,803	2,191	3,167	3,419
Children exposed to toxic chemicals	345	788	1,373	1,291
Children taken into protective custody	353	778	1,026	724
Children injured	12	14	26	44
Children killed	3	0	2	3
*The 2003 figure for the number of incidents is calendar year, while the remaining data in the column are for fiscal year				
**Data for 2000 and 2001 may not show all children affected				

Appendix 2

Source: Drug Endangered Children Program 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.
Hypophosphorus 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	Gives off vapor that is irritating to respiratory system and eyes. Solid form irritates the eyes and may burn skin. If ingested, it will cause 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.

Appendix 3

Survey for the Bill Blackwood Leadership Command College.

Requester: Lt. Mick Fichtl Collin County Sheriffs Office

Office Phone: 972-547-5279

This survey is intended to compile information on the issues related to clandestine drug labs and the use of illegal drugs in the presence of a child. The response to this survey is voluntary and will be used for research purposes only. Thank you for your time in answering these questions.

The child endangerment law (Texas Penal Code 22.041) is commonly used to file charges on those subjects who expose a child to a clandestine lab. The section used in this statute is a state jail felony unless the elements are met for injury to a child. Possession of methamphetamine less than 1 gram is a state jail felony (Texas Health and safety code 481.115). A state jail felony is punishable up to 2 years in a state jail and a \$10,000 fine.

After reading the above statement please answer the following questions.

1. Do you believe there should be a child endangerment law specifically for children exposed to clandestine drug labs? Y or N
2. Do you believe child endangerment should be the same punishment range as possession of less than 1 gram of methamphetamine? Y or N
3. Do you believe Texas should have a tougher punishment for those who exposes children to clandestine drug labs as other states have done? Y or N
4. Do you believe using an illegal drug in the presence of a child constitutes child endangerment due to exposure or neglect? Y or N
5. Do you believe the laws in Texas are adequate for children who are exposed to clandestine laboratories or drug use in their presence? Y or N

Name:_____

Date:_____