**Violent Crimes Coordinating Council Ad Hoc Subcommittee on Synthetic Drugs**

BCA Superintendent’s Conference Room

July 17, 2013 10:30-12:30

Chair, David Hermerding, Assistant Crow Wing County Attorney.

Attendees: Hilary Caligiuri, David Voigt, Jacob Kraus, Drew Evans, Violet Stephens, Sue Gross, Jim Jensen, Gordon Ramsay (via phone) Hector Garcia, Manuel Guerrero, Melvin Carter, Dave Hartford, Nick Puente, Kevin Evenson, Tara Holt, Steve Thielen, Brian Marquart and Kristin Lail.

Hermerding reviewed June synthetics hearing in Duluth and July hearing in St. Paul. Next hearing scheduled for Brainerd on August 22 from 5-9pm. Last year Rep. Simonson authored HF 1404 similar to the Indiana look-alike law which is currently being challenged in the courts. The AG’s office put together a maroon research report. Copies available by contacting David Voigt. Moorhead City ordinance is working well—challenge was upheld. Several other cities in Southern MN have used ordinances to limit head shops.

Duluth passed two ordinances in June. One makes consumption a petty misdemeanor and the other addressed the licensure/permit for operating a business. It was appealed in federal court and upheld. An appeal is in process. If selling again it would result in a minor ticket, but could affect release conditions for pending state and federal cases. Community had concerns about licensing giving authenticity to sales. Immediate impact in reduced calls for service in neighborhood.

Limits to prosecutors charging cases. Analogs are similar substances but must prove similar effect on body. Could AG’s office assign an attorney to assist with synthetics cases? All are watching outcomes of federal case scheduled for September. Roseau County got a conviction in an analog case with an expert witness from North Dakota. Local prosecutors need assistance on the science/chemistry of synthetic drugs and analogs to prepare good cases.

BCA scientists cannot testify on pharmacology if the analog has not been tested or validated to have a similar affect as the controlled substance. Crow Wing County Gross Misdemeanor case against “Risky Business” shop dismissed when unable to show similar affect. A later felony case was also dismissed when it was determined different chemical compounds at front desk and back room.

Questions for the lab: When a synthetic drug is tested what information goes back to the local agency? Could the lab identify possible analogs in their report? Could the lab note if it is a synthetic cannabinoid or cathinone in addition to the chemical names? The controlled substance must first be named in the report. Lab tries to keep up with up and coming chemicals by connecting with other state labs.

To prove an analog case, prosecutors need 1) substantially similar chemical structure to a controlled substance and 2) similar effect on the central nervous system. Can the lab report verify the chemical structure?

Is it possible to start a centralized database of case law that could, for example, track the chemical name from the Roseau case so if a different county had a similar case they could call the same expert? The Roseau case will likely be appealed and the AG’s office will monitor the outcome. Additional substances will be banned on 8/1 including the analog in the Roseau case.

Key partners for police are Chief’s & Sheriff’s Association; prosecutors is MCAA; and the BCA lab. Could the VCCC support a central clearinghouse on synthetics for law enforcement and prosecution? Could funding be included in the synthetics legislation?

The SSAS is tracking drug trends to respond faster to emerging issues like synthetics. DHS will be collecting TF data, calls to poison control, treatment admissions, DOC intake, etc. Would lab/analog data be helpful?

AGs office is monitoring other state laws, pending state and federal cases and appeals. Several other pending federal cases were declined by the U.S. Attorney’s office until the Duluth case is complete. Roseau case will be sentenced in August and will likely be appealed. AGs office may be asked to assist with appeal. Like early meth cases, it will take a while to gain momentum. With outcomes of these cases we can develop training and guidelines for prosecutors

It would also be helpful to track and clarify city ordinances and their outcomes. Duluth ordinance requires permit applicants to follow all state laws. Other ordinances address public nuisance issues.

Synthetics were only 5% of all controlled substances tested by the BCA lab in 2012. They have seen a reduction in items for testing once a certain chemical is controlled. Isomers are often undetermined. The lab is currently accepting synthetics drug cases if it is a weighable amount. There is not a viable field test for synthetics.

At the federal level they have identified expert chemists available to testify in court. Could BCA employ a staff pharmacologist? Experts may only have experience in a certain chemical associated with a certain analog which is always changing. Could on person develop expertise in many areas? Develop a list of experts and their areas of expertise. Establish a fund to support expenses of expert witnesses in synthetics cases.

State pharmacy board is pursuing expedited rulemaking authority and increasing staff. Could they serve as the clearinghouse? There is a greater need to hire a coordinator than to hire one expert. Cost is a key issue. Roseau case cost $2,300 for testimony and travel, which was low. Locals cannot afford this in case after case. Are there other professors at area colleges that could be used as expert?

Public thinks these head shops are legal. Public information and education is critical. Could forfeiture funds be used to pay for media campaign?

There is strong financial backing for store owners for legal defense. Randal Teague defends many.

Don’t forget that a lot of these synthetics are coming in through internet orders rather than at retail locations.

Look to other states that have conducted effective public health campaigns, such as Michigan and New York.

SSAS meets monthly, DHS following up directly in Duluth, MPRC federal block grants for primary prevention. DHS is developing synthetics pamphlet for distribution. Electronic distribution through social media such as Facebook and Twitter would have a greater impact.

Other controlled substances like heroin, crack and meth are still most prevalent in the inner cities.

Determine how task forces are prioritizing synthetics cases compared to other controlled substances.

Penalties for synthetics are low level similar to marijuana. Consider increasing penalties so more similar to meth or other hard drugs.

Lab backlog is improving after changing acceptance criteria, hiring scientists and may make some exceptions on synthetics cases.

Maintain e-mail list of those attending today’s meeting and follow –up.

Other partners to include in future discussions: Cody Wiborg, Board of Pharmacy; League of MN Cities, (ordinances; Department of Health (prevention); poison control; Roseau County prosecutor and North Dakota expert witness; U.S. Attorney’s Office;

Materials to obtain: Attorney Generals synthetic legal research report; Copies of new Duluth ordinances;

Brainerd hearing in August and monitor current case outcomes and challenges. Monitor other state laws and challenges. Reach out to state and national membership organizations.

Report back to VCCC at August meeting.

Draft position statement for the house select committee on synthetics on needs for law enforcement, lab and prosecution? Also consider public health and prevention? Forward subcommittee recommendations to the VCCC governance committee for review?