

## The Prosecutor as Part of a DEC Response

- ☞ October 23, 2012
- ☞ Presenter: David LaBahn
- ☞ President/CEO
- ☞ Association of Prosecuting Attorneys
- ☞ David.LaBahn@apainc.org




---

---

---

---

---

---

---

---

## Role of the Prosecutor

- ☞ The duty of the prosecutor is to seek justice, not merely to convict.




---

---

---

---

---

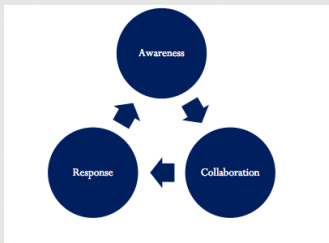
---

---

---

## Prosecutor's Role as Part of DEC Team

- ☞ Prosecutor as *collaborator*




---

---

---

---

---

---

---

---

## Objective of the DEC Response

- Identifying and addressing the short and long-term needs of drug endangered children




---

---

---

---

---

---

---

---

## Prosecutors Must Consider:

- Prosecution of the criminal charges
- The short and long term interests of the child




---

---

---

---

---

---

---

---

## How Prosecutors Help

*How prosecutor helps to strengthen the response efforts:*

- Reviews evidence
- Brings appropriate charges
  - Drug charges
  - Child abuse/neglect/endangerment charges
  - Other charges where warranted
- Informs and coordinates with child protection agencies
  - progress and disposition of criminal charges
  - terms of release or probation




---

---

---

---

---

---

---

---

## Reviewing Evidence

- ☞ Evidence from the scene
- ☞ Interviews
- ☞ Medical records
- ☞ Prior and present social service investigation reports
- ☞ Child forensic interviews
- ☞ Prior arrest histories of culpable adults




---

---

---

---

---

---

---

---

## Reviewing Evidence

- ☞ Review evidence with investigating officer
- ☞ Communicate to investigators level of evidence you need in order to pursue charges
- ☞ List child as crime victim to ensure mental health and medical services are provide
- ☞ Coordinate with Victim Witness Coordinator, Advocate and/or Guardian Ad Litem




---

---

---

---

---

---

---

---

## Filing Charges

- ☞ Criminal charges stemming from operation of meth lab may be filed in either state or federal court
- ☞ Child endangerment charges usually filed in state court




---

---

---

---

---

---

---

---

## Filing Charges



- ☞ Drug charges
- ☞ Child abuse/neglect/endangerment charges
- ☞ Other charges where appropriate




---

---

---

---

---

---

---

---

## Drug Charges



- ☞ May be felony or misdemeanor
- ☞ Certain states have statutes explicitly addressing exposure of children to illegal drug activity
- ☞ Enhanced penalties in certain jurisdictions where children




---

---

---

---

---

---

---

---

## Child Abuse/Neglect/Endangerment Charges



- ☞ Charging under general child abuse charges in addition to drug charges
- ☞ May be more than one culpable adult
- ☞ Determine care, custody, and control each adult has had of child




---

---

---

---

---

---

---

---

### Child Abuse/Neglect/Endangerment Charges

- ☞ Some considerations:
- ☞ Child's access to drugs, drug paraphernalia, weapons, and cash
  - ☞ Child's knowledge of drug activity, people, impairment
  - ☞ Length and history of exposure to abuse/neglect
  - ☞ Evidence of sexual exploitation / abuse
  - ☞ Urine drug screen results
  - ☞ School attendance records and counselor reports




---

---

---

---

---

---

---

---

### Child Abuse/Neglect/Endangerment Charges

- ☞ Important to charge!
- ☞ Can safeguard the welfare of children
  - ☞ Can influence terms of pre-trial release, sentence, probation, or parole
  - ☞ May impact what happens in dependency court




---

---

---

---

---

---

---

---

### Sentencing Considerations

- ☞ At sentencing, court establishes sanctions and activities considered necessary for rehabilitation
- ☞ Even if child endangerment charges dismissed, prosecutor can still ask that the court consider conditions relating to the child endangerment charge
- ☞ Even if one parent or caregiver not charged with endangerment, prosecutor can influence terms of probation




---

---

---

---

---

---

---

---

### Sentencing Considerations:

*Think Outside the Box!*



- ☞ Drug treatment
- ☞ Parenting classes
- ☞ No contact orders
- ☞ Compliance with all terms of family reunification care plans or other dependency/family court orders
- ☞ Cooperation with child protective services




---

---

---

---

---

---

---

---

### Communication is key!



- ☞ Communication between prosecutors, child protective services, law enforcement, probation officers, health care workers, and others are critical to a successful prosecution




---

---

---

---

---

---

---

---

### Communication is Key to Success



- ☞ Communication between the criminal and dependency and/or family law courts crucial to avoid creating conflicts or jeopardizing either case outcome
- ☞ Communication essential in determining appropriate conditions of probation/parole




---

---

---

---

---

---

---

---

## Conclusion

Given their unique role in the criminal justice system, prosecutors can help to strengthen the DEC response efforts to achieve favorable child protection outcomes.



---

---

---

---

---

---

---

---

## Presenter Information

David LaBahn  
President/CEO  
Association of Prosecuting Attorneys  
David.LaBahn@APAinc.org



---

---

---

---

---

---

---

---

## References

"Promising Practices Toolkit: Working With Drug Endangered Children and Their Families." Federal Interagency Task Force on Drug Endangered Children Federal Partnerships Subcommittee: [www.whitehouse.gov/ondcp/dec](http://www.whitehouse.gov/ondcp/dec).

"Prosecution." Florida Alliance for Drug Endangered Children: [www.floridadec.org](http://www.floridadec.org).

Prosecution Function. ABA Criminal Justice Section Standard 3-1.2 (c).

"Protocols for Prosecutors." Kansas Alliance for Drug Endangered Children: [www.kansasdec.org](http://www.kansasdec.org).

Swertlow, Karen. "Children at Clandestine Methamphetamine Labs: Helping Meth's Youngest Victims." U.S. Department of Justice: Office of Justice Programs- Office for Victims of Crime. OVC Bulletin: June 2003.

"The DEC Investigation: Law Enforcement." Arizona DEC Alliance: [www.gocyf.az.gov/SAP](http://www.gocyf.az.gov/SAP).

---

---

---

---


---

---

---

---

## NOTICE OF FEDERAL FUNDING & FEDERAL DISCLAIMER

  
*This project was supported by Grant No. 2011-DP-BX-K051 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the SMART Office, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice.*



---

---

---

---

---

---

---

---