



Forsyth DA will also try new law
Anti-terrorism statute may fight meth labs

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Frustrated by drug laws that he thought were not tough enough on methamphetamine producers, prosecutor Jerry Wilson decided to examine the books.

Wilson, the district attorney for Watauga County, and members of his staff started flipping through legal texts and precedents in the past few weeks until they found what they were looking for - a law with more teeth.

Instead of a drug law, though, Wilson turned to the state's antiterrorism laws when prosecuting accused methamphetamine producers. The laws, specifically a statute passed in November 2001, detail the penalties for manufacturing a nuclear or chemical weapon. Wilson's office filed what are believed to be the first charges using that law last week.

'We sat down and began looking for something more that we could use as a weapon against these people, and that's the statute we found,' Wilson said.

Since Wilson's decision other prosecutors have followed his lead and said that they will also prosecute methamphetamine producers under antiterrorism laws.

'The policy now will be that we will put B1 felonies on anyone having anything to do with methamphetamines. These things are very dangerous,' said Tom Keith, the district attorney in Forsyth County.

B1 felonies carry sentences ranging from 12 years to life in prison.

The first person who will be prosecuted under the antiterrorism laws is Martin Dwayne Miller, 24, of Todd. Miller was arrested July 11 and was charged with two counts of manufacturing a nuclear or chemical weapon, in connection with charges relating to methamphetamine production. Even if Miller were convicted of the most serious drug charge against him, he might have served only six months in prison, Wilson said.

To link the drug's production to chemical weapons, prosecutors referred to the toxic and combustible nature of the chemicals involved in methamphetamine production. They said that police officers and firemen who respond to calls involving the drug are at risk of serious injury, including lung damage.

Keith said he decided to use the antiterrorism laws after a visit last week to Ashe County, where he talked to drug-enforcement officials.

He said that the use of the antiterrorism law to stop the growth of methamphetamine laboratories is necessary to prevent problems that have plagued other states, including neighboring Tennessee.

'We're not going to let them get a foothold,' Keith said. 'If we catch them, we want to take their

life away, put them away for as long as we can.'

In explaining his decision to use the antiterrorism law, Wilson called the current statute 'woefully insufficient to address the epidemic of clandestine methamphetamine laboratories that Watauga County is experiencing.' The county has had 24 labs raided this year.

Several defense lawyers, however, reacted to the news that prosecutors would use antiterrorism laws with a mix of skepticism and concern for the rights of the accused.

'It seems to me to be a real stretch of the imagination, that this would be covered under the antiterrorism law,' said Wallace Harrelson, the public defender in Guilford County. 'It seems to me that the antiterrorism law was designed with a specific purpose in mind, to prosecute people who are threatening to hurt the safety of the general public.'

Harrelson and others also said that they doubted whether a judge would allow prosecution under the law for drug-related activity that does not terrorize the public.

The law defines nuclear, biological or chemical weapons of mass destruction as, in part, 'any substance that is designed or has the capability to cause death or serious injury and ... is or contains toxic or poisonous chemicals or their immediate precursors.'

Pete Clary, the public defender in Forsyth County, said that Wilson might be overstepping his bounds as a prosecutor.

'I think it's up to the legislature to decide whether the law is 'woefully insufficient,'" Clary said. 'The DA is charged with enforcing the laws on the books, not as he wishes they were.'

Wilson said that despite the legislature's intent in passing the law just two months after the Sept. 11 terrorist attacks, the text of the law is on his side.

'I understand the title of the statute is antiterrorism, but the statute is much more broad than that,' Wilson said. 'There's nothing in the statute that requires any organized terrorist effort. There's nothing in the statute that requires that these chemicals be used as a weapon.'

Keith said that the General Assembly has been slow in responding to an influx of drug manufacturers, and that legislators are hesitant to add prisoners to already-burgeoning prisons.

'I've probably got eight or 10 bills before the legislature,' Keith said. 'It is extremely difficult, with all the defense attorneys in the General Assembly, to get tougher bills passed when they also have to vote on prisons.'

Though they did not go as far as Keith in promising to prosecute methamphetamine producers under antiterrorism laws, district attorneys Stuart Albright of Guilford County and Garry Frank of Davidson County said they would consider such action if the facts of a case warranted it.

'He's a wonderful DA up in that neck up the woods, and the facts must've warranted the charge,' Albright said of Wilson's decision.

Albright also expressed confidence that the charge would hold up at trial.

'The person will either plead guilty, or we'll have a trial and a judge and jury will look at the case,' he said. 'Certainly I don't know how a DA could take their discretion too far if they either plead guilty or they're found guilty.'

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