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Methamphetamine: Legislation and Issues in the 109th Congress

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Summary

Illicit methamphetamine (MA) production and use are longstanding and severe problems in some states. In recent years, they have increasingly spread nationwide, emerging as an object of heightened federal concern. During the 109th Congress, more than 25 bills have been introduced to address the MA problem. On March 9, 2006, H.R. 3199, the USA PATRIOT Improvement and Reauthorization Act of 2005 (H.Rept. 109-333), was signed into law (P.L. 109-177). Title VII of the new law includes a number of anti-MA provisions similar to provisions in H.R. 3889, the Methamphetamine Epidemic Elimination Act, and S. 103, the Combat Meth Act of 2005. MA abuse has implications for public health, child welfare, crime and public safety, border security, and international relations. This report provides a brief overview of MA abuse, production, trafficking, the federal methamphetamine-specific programs, and anti-MA legislation introduced in the 109th Congress. This report will be updated to reflect future legislative activity.

Background

Methamphetamine (MA), a drug of the amphetamine group, is a powerful and addictive central nervous system stimulant. Originally used as a nasal decongestant and bronchiodialator, MA has been marketed under the trade names Methedrine® and Desoxyn® since the 1940s. MA is currently used to treat medical conditions, including narcolepsy, attention deficit disorder/attention deficit/hyperactivity disorder (ADD/ADHD), and obesity. Illicit MA production and use are longstanding and severe problems in some states, and there are indications that MA abuse may be rising.[1] Although abuse of this drug may vary by region of the country, MA use has spread to every state, despite being more pervasive in the West and Midwest than in the

[1] U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Statistics, *National Survey on Drug Use and Health Report*, Sept. 16, 2005.

Northeastern part of the country.[2] Methamphetamine can be administered orally, nasally, by injection, and, in the powder form that resembles granulated crystals, often referred to as "ice," by smoking.[3] MA can cause convulsions, stroke, cardiac arrhythmia, and hyperthermia. Chronic use can lead to irreversible brain and heart damage, psychotic behavior including paranoid ideation, visual and auditory hallucinations, and rages and violence. Withdrawal from the drug can induce paranoia, depression, anxiety, and fatigue.[4] The issue before Congress is how to address the problem of illicit MA abuse and its illicit production in clandestine labs. Among some options, Congress has considered and passed legislation to further regulate MA precursor chemicals, enhance penalties for drug trafficking, and increased funding for MA-specific law enforcement programs.

Congressional concern about the spreading use of MA has fueled much of the legislative debate. An annual survey by the Substance Abuse and Mental Health Services Administration (SAMHSA) provides information about MA use in recent years (see **Table 1**). According to SAMHSA, in 2004, 1.4 million persons ages 12 and older used MA in the past year and 583,000 used in the past month. The survey also indicated that the number of past month MA users who met the criteria for illicit drug *dependence* or *abuse* increased from 164,000 users in 2002 to 346,000 in 2004, and the number of last year MA users increased from 10.6% to 24%. Of these past month MA users, 130,000, or 22.3%, had used stimulants, most often MA, as their primary substance of abuse in 2004. The percentage of MA users in the last year who had used stimulants (most often MA) as their primary drug of abuse also increased, from 4.1% in 2002 to 9.0% in 2004.

Table 1. Use of MA among Persons Aged 12 or Older, 2002-2004

Use	2002	2003	2004
Lifetime Use	12,383,000	12,303,000	11,726,000
Use in Last Year	1,541,000	1,315,000	1,440,000
New Users in Last Year	323,000	260,000	318,000
Use in Last Month	597,000	607,000	583,000
Dependent Use in Last Month	164,000	250,000	346,000
Stimulant is Primary Drug of Abuse	63,000	92,000	130,000
Other Illicit Drug is Primary Drug of Abuse	101,000	158,000	216,000

Source: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies, National Survey of Drug Use and Health, 2002-2004.

Sources of Illicit Methamphetamine

According to the Drug Enforcement Agency (DEA), most illicit MA available in the United States is produced in laboratories located in Mexico or California, which is then distributed across the country using existing drug trafficking routes. DEA estimates that

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[2] National Institute of Justice, *Drug and Alcohol Use and Related Matters Among Arrestees, 2003*, 2004.

[3] U.S. Department of Justice, Drug Enforcement Agency, *Methamphetamine and Amphetamines*, Fact Sheet, at [http://www.dea.gov/concern/meth_factsheet.html].

[4] U.S. Executive Office of the President, Office of National Drug Control Policy, *Methamphetamine*, Fact Sheet, at [http://www.methresources.gov/].

between 65% and 80% of all MA consumed in the United States is smuggled into the country from Mexico.[5]

MA Precursor Chemicals. The precursor chemicals necessary for producing MA are ephedrine, pseudoephedrine, or phenylpropanolamine, which are commonly found in over-the-counter (OTC) cold and sinus medicines that have legitimate uses, and are available in retail quantities from any drug store.[6] These MA precursor chemicals are regulated (see below), yet the possibilities for criminal diversion exist and have been aggressively exploited by illicit MA producers.

Clandestine "Super" Laboratories. As noted above, most illicit MA available in the United States is produced in large clandestine laboratories in Mexico and California.[7] In these large labs, known as "super labs,"[8] MA is produced by persons linked to established drug trafficking organizations (DTOs). These super labs most often obtain the precursor chemicals they need to produce MA in wholesale quantities on the international market. According to DEA, much of the MA precursor chemical, pseudoephedrine, is either purchased by DTOs from one of seven chemical companies in Europe, Asia, and the Far East and smuggled into Mexico and the United States, or diverted from legitimate sources.

Small Clandestine Labs. The small domestic amateur labs, commonly referred to as "box" or "mom-and-pop" labs, can be set up in home kitchens, motel rooms, or other similar spaces, and produce MA with pseudoephedrine and other ingredients available at retail stores. These small labs produce illicit MA using one of several relatively simple methods. The methods most commonly used are ones that use OTC cold medicines containing pseudoephedrine, and other ingredients including acetone, hydrochloric acid, sodium hydroxide, ether, anhydrous ammonia, cat litter, antifreeze, and drain cleaner.

Previous Federal Laws Regulating MA Precursor Chemicals

Methamphetamine is a Schedule II drug under the Controlled Substances Act of 1970 (CSA).[9] Under the CSA (21 U.S.C. §801 et seq.), penalties for MA vary by the amount an individual is in possession of when arrested and can include a fine and a mandatory minimum sentence. The CSA has evolved over the years as the scope of the act was expanded to include regulation of chemicals used in the illicit production of a controlled substance. Precursor chemicals used to produce MA were brought under CSA

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[5] Ibid.

[6] For example, pseudoephedrine is an active ingredient in products like Sudafed, Actifed, NyQuil, and Claritin-D.

[7] U.S. DOJ, DEA, Methamphetamine Brief, available online at [http://www.usdoj.gov/dea/concern/meth_factsheet.html].

[8] A "super lab" is one that is capable of producing 10 pounds or more of MA per production cycle.

[9] Drugs or other substances are classified under Schedule II after a finding that they (1) have a high potential for abuse, and (2) have a currently accepted medical use in treatment in the U.S. or a currently accepted medical use with the risk of severe dependence. Since 1971, all amphetamines, including all forms of MA, are classified under Schedule II.

control by the Comprehensive Methamphetamine Control Act of 1996 (MCA), which also increased penalties for the trafficking and manufacturing of MA and its precursor listed chemicals, and expanded the controls on products containing the licit chemicals ephedrine, pseudoephedrine, and phenylpropanolamine (PPA). The Methamphetamine Penalty Enhancement Act of 1998 lowered certain quantity thresholds for mandatory minimum trafficking penalties. The Methamphetamine Anti-Proliferation Act (MAPA) of 2000 reduced the thresholds for single OTC purchases of pseudoephedrine and phenylpropanolamine products to 9 grams and required the use of "blister packs" for products of more than 3 grams of pseudoephedrine. MAPA also strengthened sentencing guidelines, provided training for federal and state law enforcement officers handling chemicals from clandestine MA labs, and expanded substance abuse prevention efforts.

Federal Programs[10]

Many agencies and bureaus within DOJ are involved in addressing the issue of illicit MA. Chief among them is the DEA. Through collaborations with the Federal Bureau of Investigation (FBI), and numerous task forces, including the Organized Crime Drug Enforcement Task Force (OCDETF) and the High Intensity Drug Trafficking Areas (HIDTA), and collaborations with other federal, state, and local law enforcement, DEA targets drug traffickers across the country and internationally to stem the flow of illegal drugs in the United States. According to DEA, the total amount of MA interdicted at the U.S.-Mexico border in 2002 had increased by more than 17% since 1999.[11]

The "Meth Hot Spots" program under the Community Oriented Policing Services (COPS) program is a grant program that *specifically* provides funding for a broad range of initiatives designed to assist state and local law enforcement in undertaking anti-MA initiatives. For FY2006, the Meth Hot Spots program received appropriations of $63.6 million (P.L. 109-108). Between 1998 and mid-2004, the COPS program has provided more than $350 million nationwide to address the MA problem.[12] Additional DOJ grant programs provide assistance for a broad range of programs and initiatives which *can* include anti-MA efforts. **Table 2** provides DOJ funding for grants, including Meth Hot Spots grants, awarded to state and local programs related to anti-MA initiatives across the country. For the period FY2000-FY2005, 470 grants were provided, totaling $263.8 million. The program received an appropriation of $63 million in FY2006; the FY2007 President's budget request program funding of $40 million.

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[10] In addition to the programs and activities mentioned in this report, there are programs throughout the federal government that provide activities and services related to the prevention, education and treatment of MA, and to assisting localities with clandestine lab remediation. They are, however, beyond the scope of this report.

[11] DEA Resources, For Law Enforcement Officers, Intelligence Reports, Federal-Wide Drug Seizures, available at [http://www.usdoj.gov/dea/].

[12] U.S. Department of Justice, Office of Community Oriented Policing Services, *COPS Fact Sheet: Methamphetamine Initiative*, Sept. 2004, available at [http://www.cops.usdoj.gov].

Table 2. DOJ Awards Relating to MA Initiatives, FY2000-FY2005

Fiscal Year	2000	2001	2002	2003	2004	2005
Total grant amount (in millions)	$12.6	$32.5	$52.5	$62.9	$55.0	$48.3
Total number of grants	23	44	118	101	97	87

Source: DOJ, Bureau of Justice Assistance, totals as of October 19, 2005.

Legislation in the 109th Congress

Numerous bills have been introduced in the 109th Congress to curb MA use, trafficking, and production (see **Table 3**); two, S. 103 and H.R. 3889, were reported by committees for consideration on the floors of the House and Senate.[13] The conference agreement on H.R. 3199 (H.Rept. 109-333), the USA PATRIOT Improvement and Reauthorization Act of 2005, included anti-MA provisions reminiscent of H.R. 3889 and S. 103, and was enacted and signed into law on March 9, 2006 (P.L. 109-177).

P.L. 109-177 includes numerous anti-MA provisions designed to limit the diversion of MA precursor chemicals, domestically and internationally, increase MA-related criminal penalties, expand measures related to illicit MA laboratory clean up, and create a grant program to address MA abuse. Some provisions of the new law include the following:

- limits OTC purchases of cold and sinus medications with MA-precursor chemicals[14] to 3.6 grams a day; limits on mail order purchases of similar OTC medications to 7.5 grams a month;
- requirements that retailers of OTC medications containing MA-precursors be kept behind the counter, that purchasers of more than 60 mg (two dosage units) of pseudoephedrine be required to show government-issued photo identification and sign for such purchases;
- requires the Attorney General (AG) to establish production and import quotas for MA-precursor chemicals, imposes criminal sanctions for violations of these quotas, expands the AG's authority to regulate controlled substance imports, expands the notification and suspension of shipment requirements for importation and exportation of listed MA-precursor chemicals by the five largest importing and five largest exporting countries with the highest rates of MA precursor diversion, and directs the Secretary of State to report to Congress on a plan to deal with diversion of MA precursors and to take diplomatic action to prevent MA smuggling from Mexico and report to Congress on the resulting efforts;
- provides a consecutive term of up to 15 years imprisonment to the penalties for individuals smuggling MA using dedicated commuter lanes at border crossings and would further make such persons permanently ineligible from using such lanes; imposes a maximum fine of not less than $500,000 for manufacturing a controlled substance on federal

[13] H.R. 798, was reported by the Committee on Science (H.Rept. 109-42) on Apr. 13, 2005, and passed by the House on December 13, 2005; however, the bill is solely about lab remediation. For more information see, CRS Report RL32959, *Methamphetamine Lab Clean-Up and Remediation Issues*, by Michael Simpson.

[14] MA precursors include pseudoephedrine, ephedrine, and phenylpropanolamine.

property; reduces the threshold amounts of MA required to trigger prosecution as an MA "drug kingpin;" provides an additional term of imprisonment of not more than 20 years to criminal penalties in cases where the manufacture or trafficking in MA is carried out where children are present or reside;

- requires mandatory drug testing and sanctions for drug court participants and authorize appropriations of $70 million for drug court grants;
- reauthorizes the COPS Meth Hot-Spots program, authorizing appropriations of $99 million for each of the fiscal years 2006-2010, and requires the Secretary of Transportation to report on the designation of MA byproducts as hazardous materials for the purposes of the Hazardous Material Transportation Act, and for the Administrator of the Environmental Protection Agency to report under the Solid Waste Disposal Act on MA production waste;
- authorizes appropriations of $20 million for FY2006 and FY2007 for grants to states for drug-endangered children programs;
- authorizes such sums as may be necessary for a competitive grant program available to state, local, and tribal governments to provide services for MA use by pregnant and parenting women offenders; and
- requires the AG to report to Congress biannually on DEA's and FBI's allocation of resources for investigating and prosecuting MA offenses.

Table 3. Methamphetamine Legislation in the 109th Congress

Legislative Response	Bills Containing Relevant Provisions
Expand regulation of OTC medication made of MA precursor chemicals	
Elimination of "blister pack" exemption	H.R. 1350, H.R. 1446, H.R. 3889, P.L. 109-177
Scheduling or listing pseudoephedrine	H.R. 314, S. 103, H.R. 1083, H.R. 1378, H.R. 3955, H.R. 3889[a], P.L. 109-177
Limit on amount of OTC purchase	H.R. 1056, H.R. 1446, H.R. 3889, P.L. 109-177
Registry or 'behind-the-counter' sales	H.R. 314, S. 103, H.R. 3889,[a] H.R. 3955, P.L. 109-177
Training for retailers - MethWatch	H.R. 1056, H.R. 3513
Retail distributors of pseudoephedrine	H.R. 1056, H.R. 3955, H.R. 3889, P.L. 109-177
Enhanced criminal penalties for MA or precursor chemicals	H.R. 1395, H.R. 1056, H.R. 3513, H.R. 3755, H.R. 3756, H.R. 3889, P.L. 109-177
Import controls on MA and precursors	H.R. 1056, H.R. 3955, H.R. 3889, P.L. 109-177
MA precursor chemical monitoring grants	H.R. 314, H.R. 1446, H.R. 3889, S. 103[a]
MA laboratory remediation, guideline development, research	H.R. 13, H.R. 314, H.R. 798, H.R. 3889, S. 103[a], S. 259, S. 430, S. 2019, S. 2046
Regulation of imports of precursor chemicals	H.R. 1446, H.R. 3889, P.L. 109-177
Regulation/quotas for MA precursors	H.R. 1446, H.R. 2601, H.R. 3889, P.L. 109-177
COPS *Meth Hot Spots* Grant provisions	H.R. 314, S. 103, H.R. 1446, H.R. 3889[a], P.L. 109-177
COPS grants for hiring local prosecutors	H.R. 314, S. 103
Grants for services for drug-endangered children	H.R. 314, S. 103, H.R. 1395, H.R. 1446, H.R. 2335, H.R. 3889,[a] P.L. 109-177
Grants for MA abuse treatment	H.R. 314, S. 103, H.R. 1446, H.R. 3513
Grants for research, training, technical assistance	H.R. 314, S. 103, H.R. 1446
U.S. Attorneys' hiring program	H.R. 314, S. 103, H.R. 1446
Grants for pseudoephedrine alternatives	H.R. 1056
Reports on progress of anti-MA laws regulations	H.R. 1056, H.R. 1446, P.L. 109-177
Anti-MA grants for Indian Tribes	S. 2552, S. 2643

[a] As reported.

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