

CRS Report for Congress

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Methamphetamine: Legislation and Issues in the 109th Congress

Celinda Franco
Specialist in Social Legislation
Domestic Social Policy Division

Summary

Illicit methamphetamine (MA) production and use are longstanding and severe problems in some states. In recent years they have spread increasingly widely, emerging as an object of heightened federal concern. During the 109th Congress, over twenty-five bills have been introduced to address the MA problem. 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, and of the federal methamphetamine-specific programs, and legislation that is being actively considered by 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 While 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 Northeastern part of the country.² Methamphetamine can be administered orally, nasally, by injection, and, in the powder

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*, September 16, 2005.

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

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 the Congress is how to address the problem of illicit MA use and its production in clandestine labs. Among some options, Congress is considering legislation that would further regulate MA precursor chemicals, enhance penalties for drug trafficking, or increase funding for MA-specific state and local law enforcement programs.

Sources of Illicit Methamphetamine

According to the Drug Enforcement Agency (DEA), most illicit MA available in the U.S. is produced in laboratories located in Mexico or California, that is then distributed across the country using existing drug trafficking routes. DEA estimates that between 65-80% of all MA consumed in the U.S. is smuggled into the country from Mexico.⁵

MA Precursor Chemicals. The precursor chemicals necessary for producing MA are ephedrine, pseudoephedrine, or phenylpropanolamine,⁶ which are commonly found in over-the-counter (OTC) cold and sinus medicines that have legitimate uses, and are easily available in retail quantities from any drug store. 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 U.S. 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 the DTOs from one of seven chemical companies in Europe, Asia, and the Far East and smuggled into Mexico and the U.S., or diverted from legitimate sources.

³ U.S. Department of Justice, Drug Enforcement Agency, *Methamphetamine and Amphetamines*, Fact Sheet, available at [http://www.dea.gov/concern/meth_factsheet.html], accessed on November 15, 2005.

⁴ U.S. Executive Office of the President, Office of National Drug Control Policy, *Methamphetamine*, Fact Sheet available at [<http://www.methresources.gov/>], accessed on November 15, 2005.

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*, accessed on November 15, 2005, 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.

Small Clandestine Labs. The smallest of the domestic labs are those commonly referred to as “mom-and-pop” labs that can be set up in home kitchens, motel rooms, or other similar spaces, and produce MA with pseudoephedrine exclusively from 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.

Current Law

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.¹⁰ Precursor chemicals used to produce MA were brought under CSA 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 Programs¹¹

Many agencies and bureaus within DOJ are involved in addressing the issue of illicit MA. Chief among them is the Drug Enforcement Agency (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

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 severe dependence. Since 1971, all amphetamines, including all forms of MA, are classified under Schedule II.

¹⁰ For more information on regulation of pseudoephedrine in OTC medications see, CRS Report RS22177, *The Legal Regulation of Sales of Over-the-Counter Cold Medication*, by Jody Feder.

¹¹ 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.

interdicted at the U.S. - Mexico border in 2002, had increased by over 17% since 1999.¹²

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 undertake anti-MA initiatives. For FY2006, the Meth Hot Spots program received appropriations of \$63.6 million (H.Rept. 109-272). Between 1998 and mid-2004, the COPS program has provided over \$350 million nationwide to address the MA problem.¹³

Additional DOJ grant programs provide assistance for a broad range of programs and initiatives which *can* include anti-MA efforts. **Table 1** 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.

Table 1. DOJ Awards Relating to Methamphetamine 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 2**); two, S. 103 and H.R. 3889, have been reported from committees for consideration on the floors of the House and Senate. H.R. 3199, the *USA PATRIOT Improvement and Reauthorization Act of 2005*, was passed by the House on July 21, 2005 and by the Senate on July 29, 2005. The conference report for H.R. 3199 was reported out of conference on November 9, 2005. It is anticipated that a compromise version of elements of both S. 103 and H.R. 3889 will be added to the conference report for H.R. 3199. The conference report for H.R. 3199 is expected to be voted on by the House and Senate by November 19, 2005.

S. 103, as amended and reported by the Senate Judiciary Committee on July 28, 2005, would limit the sale of pseudoephedrine to 7.5 grams in a 30-day period, except by prescription and sold by licensed pharmacist or pharmacy technician; establish a registry for purchasers of pseudoephedrine products; and permit limited sales of such products at airports. S. 103 would provide grants for drug endangered children, local grants for MA

¹² DEA Resources, For Law Enforcement Officers, Intelligence Reports, Federal-Wide Drug Seizures, available at [<http://www.usdoj.gov/dea/>].

¹³ U.S. Department of Justice, Office of Community Oriented Policing Services, *COPS Fact Sheet: Methamphetamine Initiative*, September 2004, available at [<http://www.cops.usdoj.gov>].

substance abuse treatment, and grants for MA research and training; authorize grants to states for establishing precursor monitoring programs; authorize appropriations of \$15 million for COPS MA-training; permit the use of Meth Hot Spots grants for MA-related hiring, and authorize \$5 million for hiring prosecutors to prosecute MA cases.

H.R. 3889, was introduced by Representative Souder on September 22, 2005, and reported by the House Judiciary Committee on November 11, 2005. The bill would reduce OTC purchases of pseudoephedrine from the current limit of 9 grams to only 3.6 grams; repeal the “blister pack” exemption; require the Attorney General to establish domestic production quotas for MA precursors and restrict their importation; require registered importers to file advance notice of their precursor customers with DOJ; and further regulate foreign imports of precursor chemicals. H.R. 3889 would require efforts to prevent smuggling of MA into the U.S. from Mexico; make it easier to convict MA “kingpins;” and give judges discretion in sentencing for crimes involving MA precursors. The bill would authorize \$99 million annually for FY2006-FY2010 for the Meth Hot Spots program and \$20 million annually in FY2006 and FY2007, for grants for programs that aid children living in a MA-lab home. H.R. 3889 would also give additional authority to the Department of Transportation (DOT) and the Environmental Protection Agency (EPA) to enforce environmental regulations against MA cooks and treat contaminated areas as hazardous waste sites. The bill was also marked up and reported by the House Committee on Energy and Commerce on November 16, 2005.

Table 2. Methamphetamine Legislation in the 109th Congress

Legislative Response	Bills Containing Relevant Provisions
Expand regulation of OTC medication	H.R. 314, H.R. 1056, H.R. 1083, H.R. 1350, H.R. 1378, H.R. 1446, H.R. 3324, H.R. 3513, H.R. 3568, H.R. 3889, S. 103, S. 430
Elimination of “blister pack” exemption	H.R. 1350, H.R. 1446, H.R. 3889
Adding pseudoephedrine to Schedule V or listed chemical	H.R. 314, S. 103, H.R. 1083, H.R. 1378, H.R. 3955,
Limit on amount of OTC purchase	H.R. 1056, H.R. 1446, H.R. 3889
Registry or ‘behind-the-counter’ sales	H.R. 314, S. 103, H.R. 3955
Training for retailers - MethWatch	H.R. 1056, H.R. 3513
Retail distributors of pseudoephedrine	H.R. 1056, H.R. 3955, H.R. 3889
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
Import controls on MA and precursors	H.R. 1056, H.R. 3955, H.R. 3889
Precursor chemicals monitoring grants	H.R. 314, H.R. 1446, H.R. 3889, S. 103
MA Laboratory Remediation	H.R. 13, H.R. 314, H.R. 798, H.R. 3889, S. 103, S. 259, S. 430
Regulation of imports of precursor chemicals	H.R. 1446, H.R. 3889
Regulation/quotas for MA precursors	H.R. 1446, H.R. 2601, H.R. 3889
COPS Meth Hot Spots Grants	H.R. 314, S. 103, H.R. 1446, H.R. 3889*
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*
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
Research grants for pseudoephedrine alternatives	H.R. 1056
Reports on progress of anti-MA laws and regulations	H.R. 1056, H.R. 1446

*(as amended)