



CRS Report for Congress

Methamphetamine: Legislation and Issues in the 110th 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, concerns were raised that this drug problem was spreading nationwide, and MA issues became an important federal concern. During the 110th Congress, legislation was introduced on a broad range of issues related to MA abuse, illicit manufacture, treatment, and drug trafficking offenses. For example, S. 1276, the Methamphetamine Production Prevention Act of 2008 (P.L. 110-415), further specified the procedures retailers must follow for tracking the retail purchases of over-the-counter (OTC) medications containing MA precursor chemicals. H.R. 1199, the Drug-Endangered Children Act of 2007 (P.L. 110-345), extended the authority of the Drug-Endangered Children grant program through FY2009. Some of the MA legislation would have built on provisions enacted in the Combat Methamphetamine Epidemic Act (CMEA, P.L. 109-177), which were designed to control and limit the availability of MA and its precursor chemicals. MA abuse has implications for public health, child welfare, crime and public safety, and international relations. This report provides a brief overview of MA abuse, its illicit domestic manufacture, federal responses, and anti-MA legislation introduced in the 110th Congress. This report has been updated to reflect 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 bronchiodilator, MA has been marketed under the trade names Methedrine® and Desoxyn® since the 1940s. MA is currently used to treat a limited number of medical conditions, including narcolepsy, attention deficit disorder/attention deficit/hyperactivity disorder (ADD/ADHD), and obesity. MA can be administered orally, nasally, by injection, and, in the powder form that resembles granulated crystals, often referred to as

“ice,” by smoking.¹ MA use 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, rages and violence. Withdrawal from MA can induce long-term depression, anxiety, and fatigue.

Illicit MA manufacture and abuse are longstanding and severe problems in some states and regions of the country, particularly in the West, Midwest, and Southeast. Over the past 30 years, Congress has passed legislation designed to address the problem of illicit MA abuse and its manufacture in clandestine labs, including legislation to regulate MA precursor chemicals, enhance penalties for drug trafficking, and increase funding for MA-specific law enforcement programs. Congress continues to be concerned about the abuse and illicit manufacture of MA.

According to the 2007 National Survey on Drug Use and Health (NSDUH), there were approximately 529,000 current users of MA aged 12 or older (0.2% of the population), compared with the 2006 estimate of 731,000 current MA users (0.3% of the population).² Reported MA use among young adults aged 18 to 25 decreased from 0.6% to 0.4% between 2006 and 2007. **Table 1** provides the latest NSDUH data available on the number of past-month MA users who met the criteria for illicit drug *dependence or abuse*. The number MA users reporting dependence or abuse increased from 250,000 users in 2003 to 257,000 in 2005, although there was a marked spike in the number reporting *dependence or abuse* of MA in 2004. Of those persons reporting *dependent use in the last month* in 2005, 103,000, or 20%, reported using stimulants (most often MA) as their primary substance of abuse.

Table 1. Use of MA Among Persons Aged 12 or Older, 2003-2006
(in thousands)

| Use | 2003 | 2004 | 2005 | 2006 |
|---|--------|--------|--------|--------|
| Lifetime Use | 15,139 | 14,512 | 12,663 | 14,206 |
| Use in Last Year | 1,602 | 1,808 | 1,603 | 1,889 |
| New Users in Last Year | 260 | 318 | 192 | 259 |
| Use in Past Month | 726 | 706 | 628 | 731 |
| Dependent Use in Last Month | 250 | 346 | 257 | N/A |
| Stimulant is Primary Drug of Abuse | 92 | 130 | 103 | N/A |
| Other Illicit Drug is Primary Drug of Abuse | 158 | 216 | 154 | N/A |

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, 2003-2006.

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

¹ U.S. Department of Justice, Drug Enforcement Agency, *Methamphetamine and Amphetamines*, Fact Sheet, at [http://www.dea.gov/concern/meth_factsheet.html].

² U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Statistics, *2007 National Survey on Drug Use and Health Report*, September 4, 2008.

distributed across the country using existing drug trafficking routes. DEA estimates that around 80% of all MA consumed in the United States is smuggled into the country from Mexico.³

Clandestine “Super” Laboratories. As noted above, most illicit MA available in the United States is produced in large clandestine laboratories in Mexico and California.⁴ In these large labs, known as “super labs,”⁵ MA is produced by persons linked to established drug trafficking organizations (DTOs). These super labs most often obtain the precursor chemicals they need to manufacture illicit 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 that are readily available on the Internet and other sources. The methods most commonly used to manufacture MA in amateur labs rely on the precursor chemicals, ephedrine, pseudoephedrine, or phenylpropanolamine, which are commonly found in over-the-counter (OTC) cold and sinus medicines available from any drug store.⁶ In combination with common household and agricultural products, such as acetone, hydrochloric acid, sodium hydroxide, ether, anhydrous ammonia, cat litter, antifreeze, and drain cleaner, precursor chemicals are synthesized into MA.

Federal Enforcement Programs⁷

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

³ Ibid.

⁴ U.S. DOJ, DEA, Methamphetamine Brief, available online at [http://www.usdoj.gov/dea/concern/meth_factsheet.html].

⁵ A “super lab” is one that is capable of producing 10 pounds or more of MA per production cycle.

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

⁷ Other federal programs providing prevention and treatment of MA use, and assisting localities with clandestine lab remediation, are beyond the scope of this report.

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 1999.⁸

The “Meth Hot Spots” program under the Community Oriented Policing Services (COPS)⁹ 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. Between 1998 and 2007, the COPS program has provided more than \$448 million nationwide to address the MA problem.¹⁰ For FY2007, approximately \$47 million was available for COPS Methamphetamine initiative.¹¹ The Consolidated Appropriations Act, 2008 (P.L. 110-161), included funding of almost \$61.2 million for the Meth Hot Spots program.¹²

The Combat Methamphetamine Epidemic Act (P.L. 109-177)

During the 109th Congress, passage of the USA PATRIOT Improvement and Reauthorization Act of 2005, included Title VII, the Combat Methamphetamine Epidemic Act (P.L. 109-177), legislation designed to curb MA use, trafficking, and production. Signed into law on March 9, 2006, Title VII of P.L. 109-177 included provisions 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 prevent and treat MA abuse among parenting women. The law

- limits OTC retail purchases of cold and sinus medications containing MA-precursor chemicals¹³ to 3.6 grams a day; limits mail order purchases of similar OTC medications to 7.5 grams a month;
- requires that retailers of OTC medications containing MA-precursors be kept behind the counter, and that purchasers of more than 60 mg (two dosage units) of pseudoephedrine must show a form of government-issued photo identification and sign a registry for such purchases;
- requires that the Attorney General (AG) establish production and import quotas for MA-precursor chemicals; impose criminal sanctions for violations of these quotas; expands the AG’s authority to regulate controlled substance imports;
- provides additional criminal penalty enhancements equal to a consecutive term of up to 15 years imprisonment for individuals convicted of

⁸ DEA Resources, For Law Enforcement Officers, Intelligence Reports, Federal-Wide Drug Seizures, available at [<http://www.usdoj.gov/dea/>].

⁹ For more information on the COPS program, see CRS Report RL33308, *The Community Oriented Policing Services (COPS): Background, Legislation and Issues*, by Nathan James.

¹⁰ U.S. Department of Justice, Office of Community Oriented Policing Services, *COPS Fact Sheet: Methamphetamine Initiative*, August 2007, available at [<http://www.cops.usdoj.gov>].

¹¹ *Ibid.*

¹² Other DOJ grant programs under the Office of Justice Programs provide assistance for a broad range of state and local law enforcement programs and initiatives which *can* include anti-MA efforts.

¹³ MA precursors include pseudoephedrine, ephedrine, and phenylpropanolamine.

smuggling MA using dedicated commuter lanes at border crossings and further makes such persons permanently ineligible from using such lanes; a maximum fine of not less than \$500,000 for manufacturing a controlled substance on federal property; reductions in the threshold amounts of MA required to trigger prosecution as an MA “drug kingpin”; additional term of imprisonment of up to 20 years 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 authorizes 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;
- authorizes appropriations of \$20 million for FY2006 and FY2007 for grants to states for drug-endangered children programs; and
- authorizes such sums as may be necessary for a competitive grant program for state, local, and tribal governments to provide services for MA use by pregnant and parenting women offenders.

Legislation in the 110th Congress

Legislation to address the ongoing problem of illicit use and manufacture of MA was considered and enacted during the 110th Congress. H.R. 1199, the Drug-Endangered Children Act of 2007 (P.L. 110-345), passed by the House and Senate on September 24, 2008, extended the authority of the Drug-Endangered Children grant program through FY2009. Four bills, S. 85, S. 267, H.R. 545, and S. 2087, would have clarified that territories and Indian tribes were eligible to receive MA-related grants for drug-endangered children and for addressing MA use by pregnant and parenting women offenders provided under CMEA. These bills were not enacted, although Congress did enact similar amendments under the Consolidated Appropriations Act, 2008 (P.L. 110-161), to include territories and Indian tribes among those entities eligible to receive such grants.

H.R. 405, S. 884, S. 1367, H.R. 3130, H.R. 3749, and H.R. 6901 would have amended the Public Health Service Act to provide residential family treatment programs for pregnant and parenting women, including treatment for MA addiction and MA treatment alternatives to incarceration for non-violent offenders.¹⁴ H.R. 3186 and S. 1906 would have established a program to investigate oral health problems associated with MA use, known as “meth mouth,” while H.R. 3187 and S. 1907 would have focused on similar oral health problems among prison inmates. H.R. 3433 would have required a survey of research on MA treatment and recommend additional research avenues.

H.R. 365 (P.L. 110-143) provided for a research program for remediation of clandestine MA laboratories,¹⁵ similar to those included in S. 635. P.L. 110-143 also provided for the establishment of voluntary guidelines for the remediation of MA laboratory sites; established a research program to support the development, assessment,

¹⁴ For more information, see CRS Report RL33354, *The Promoting Safe and Stable Families Act: Reauthorization in the 109th Congress*, by Emilie Stoltzfus.

¹⁵ For more information, see CRS Report RL32959, *Methamphetamine Lab Clean-Up and Remediation Issues*, by Michael M. Simpson.

and revision of these guidelines; and authorized appropriations of \$2.5 million to fund research on the residual toxic effects of MA laboratories, and research on developing new MA site detection technologies, such as field test kits and other methods of detecting these toxic sites. H.R. 955 would have, among other things, authorized funding for environmental cleanup of lands contaminated by hazardous substances associated with the illicit manufacture of MA, and provided grants for state and local governments to cleanup and dispose of hazardous MA by-products. S. 2100 would have required that federal forfeiture funds be used, in part, to pay for MA laboratory cleanup.

S. 4, Improving America's Security Act of 2007 (P.L. 110-53), included provisions to establish a "Rural Policing Institute" as part of the Federal Law Enforcement Training Center (based in Glynco, Georgia) where, among other things, programs for rural law enforcement agencies would include training on addressing MA addiction and distribution. H.R. 1028, S. 560, and H.R. 1697 included similar provisions. S. 368 and H.R. 1700 would have amended the COPS program to authorize, among other things, the AG to establish and implement innovative programs to reduce and prevent the illegal manufacturing, distribution, and use of MA.

S. 132 would have lowered the threshold for possession of MA required to constitute violation under current law (21 U.S.C. §848) and triggering prosecution as a "continuing criminal enterprise," as well as increasing penalties and fines for violations involving MA or its salts, isomers, or salts of isomers. H.R. 3143 and S. 2137 would have lowered the criminal thresholds for classifying an offender as an MA "kingpin" and increased the penalty enhancements for such crimes, as well as establishing a multi-jurisdictional MA task forces of federal, state, local law enforcement. H.R. 1118 would have enhanced criminal penalties for drug trafficking offenses relating to the manufacture and distribution of large amounts of MA. Similarly, H.R. 2425 would have enhanced penalties for marketing MA and other drugs to minors, while S. 1211 would have enhanced penalties for marketing *all* controlled substance to minors. H.R. 246 and S. 1178 would have required the AG to conduct a study evaluating whether there is a connection between the commission of MA-related crimes and identity theft crimes.

S. 1276, the Methamphetamine Production Prevention Act of 2008 (P.L. 110-415), as amended and passed by the Senate and the House on September 29, 2008, specified the procedures and identification requirements for tracking the retail purchases of over-the-counter (OTC) medications containing MA precursor chemicals. S. 1276 required that retailers obtain and record identifying information from prospective purchasers of certain types of OTC medications, further specified how paper or electronic signatures are to be collected, and required that retailers retain this information for at least two years. H.R. 2747 and S. 2237 also would have established a grant program to support the use of electronic logbooks for collecting and maintaining records of MA-precursor transactions to aid in the control of MA precursor chemicals. S. 2071 and H.R. 5619 would have required the self-certification of all "persons" selling MA precursor chemicals from behind the counter in retail stores.