

January 2007

METHAMPHETAMINE CRIMES: WASHINGTON'S LAWS COMPARED WITH NEIGHBORING STATES—REVISED

In the 2005 National Drug Threat Survey (NDTS), 92 percent of law enforcement agencies in Washington State ranked methamphetamine (meth) as the greatest drug threat in their area.¹ While domestic methamphetamine production decreased sharply in the last five years, compared to these smaller labs, drug trafficking organizations (DTO) are now playing a larger role in the production and distribution of methamphetamine. Officials estimate that 75 percent of the methamphetamine in Washington State was imported in 2005, compared with 50 percent in 2001.²

In response to shifts in the methamphetamine market, the 2006 Washington State Legislature directed the Washington State Institute for Public Policy to study...

...“criminal sentencing provisions of neighboring states for all crimes involving methamphetamine. The institute shall report to the legislature on any criminal sentencing increases necessary under Washington law to reduce or remove any incentives methamphetamine traffickers and manufacturers may have to locate in Washington.”³

Suggested citation: Burley, Mason. (2007). *Methamphetamine crimes: Washington's laws compared with neighboring states*. Olympia: Washington State Institute for Public Policy, Document No. 07-01-1901.

This report includes information from states in the Pacific Northwest (Washington, Oregon, and Idaho) and examines:

- trends in methamphetamine-related use and crimes;
- changes in both federal and state laws restricting the sale of pseudoephedrine (PSE), a major precursor in the manufacture of methamphetamine;
- efforts by law enforcement to reduce the supply of methamphetamine from smaller clandestine labs as well as larger distribution networks importing the drug; and
- state and federal sentencing laws for methamphetamine possession, manufacture, and distribution.

Washington State has been noted as a leader in the effort to curb methamphetamine abuse. According to the National Crime Prevention Council, “what sets Washington State apart is its commitment to coalesce local, state, and federal efforts to combat methamphetamine in a comprehensive, statewide initiative.”⁴ Information about activities in neighboring states will help ensure that statewide and local initiatives have the greatest influence on reducing methamphetamine supply and distribution.

¹ Northwest High Intensity Drug Trafficking Area (HIDTA) Program. (June 2006). *Threat assessment*. Seattle: Office of National Drug Control Policy, p. 15.

² Associated Press. (2006, August 31). *As meth labs decrease, traffickers fill the void*.

³ <http://www.komotv.com/news/archive/4187206.html>

³ E2SSB 6239, Chapter 339, § 304, Laws of 2006.

⁴ National Crime Prevention Council. (2002). *Responding to methamphetamine, Washington State's promising example*. Washington D.C., p. 3.

METHAMPHETAMINE USE

Methamphetamine is a stimulant that can be injected, smoked, snorted, or ingested. In the smoked form, methamphetamine is also referred to as “ice,” “crystal,” or “crank.” Methamphetamine production and use has been associated with a range of criminal behaviors, particularly property crimes and identity theft. In June 2006, the National Association of Counties (NACo) surveyed county sheriffs to assess how methamphetamine impacted local law enforcement. Nearly half (48 percent) the sheriffs reported that at least 20 percent of arrests are related to methamphetamine in their counties.⁵ As trafficking of methamphetamine increases, many law enforcement officials report that crimes related to methamphetamine use are growing more violent.⁶ In the same NACo survey, 48 percent of sheriffs reported an increase in domestic violence and 41 percent reported an increase in simple assaults “because of the presence of methamphetamine.”

Methamphetamine is both highly addictive and costs little to produce. Throughout the 1990s methamphetamine use grew steadily in the West and Northwest. In 1990, the *lifetime prevalence* of crystal methamphetamine use in the Western states was 5.1 percent for young adults (ages 19 to 28). In other regions, *lifetime use* stood at about 2 percent for this population. By 2005, the *lifetime prevalence* for use of crystal methamphetamine had grown to 7.9 percent among young adults in the West.⁷

The most reliable estimate of recent methamphetamine use in the overall population comes from the National Survey on Drug Use and Health (NSDUH). As a result of changes in this survey, annual statistics for methamphetamine use prior to 2002 cannot be compared to recent data. Since 2002, however, there are indications that the overall use of methamphetamine may be stabilizing. Exhibit 1 shows that between 1.5 and 1.7 percent of adults between the ages of 18 and 25 reported using methamphetamine *in the past year*. This age group represents 30 to 40 percent of all methamphetamine users. Among all persons (age 12 and older), 0.5 to 0.7 percent of the population reported methamphetamine use *in the last year*.

Exhibit 1
Percentage of Total Population Reporting Methamphetamine Use in the Past Year: National Survey of Drug Use and Health 2002 – 2005

Age	2002	2003	2004	2005
18-25	1.7%	1.5%	1.6%	1.6%
12 and older	0.7%	0.6%	0.6%	0.5%

Source: National Survey on Drug Use and Health (NSDUH) Series <<http://webapp.icpsr.umich.edu/cocoon/SAMHDA-SERIES/00064.xml?token=1>>

States with the highest rates of methamphetamine use are displayed in Exhibit 2. To compare state data from the NSDUH, multiple years must be grouped together to adjust for lower overall responses in each state. As Exhibit 2 shows, western and mid-western states make up the vast majority of states with the highest incidence of methamphetamine use.

⁵ National Association of Counties. (2006, July 18). *The criminal effect of meth on communities – A 2006 survey of U.S. counties*. Washington D.C.

⁶ Washington State Attorney General's Office (November 2005). *Operation: Allied against meth – Task Force 2005 Final Report*. Olympia: Washington State Office of the Attorney General, p. 43.

⁷ L.D. Johnston, P.M. O'Malley, J.G. Bachman, & J.E. Schulenberg. (2006). *Monitoring the future national survey results on drug use, 1975–2005: Volume II, College students and adults ages 19–45* (NIH Publication No. 06-5884). Bethesda, MD: National Institute on Drug Abuse.

Exhibit 2
Percentages of Persons Reporting Past Year
Methamphetamine Use, by States with Highest
Use: 2002, 2003, 2004, and 2005

State	Age 18 – 25	Age 12 and Older
Nevada	3.81	2.02
Wyoming	4.58	1.47
Montana	3.08	1.47
Oregon	3.62	1.24
Idaho	3.24	1.24
Nebraska	2.80	1.24
Arkansas	4.41	1.23
Arizona	2.26	1.22
New Mexico	2.96	1.16
North Dakota	2.54	1.13
California	2.48	1.13
South Dakota	2.91	1.12
Hawaii	2.13	1.09
Colorado	2.70	1.07
Iowa	2.14	1.07
Washington	3.00	1.03
Utah	1.77	0.94
Kansas	1.75	0.92
Missouri	2.81	0.91
Oklahoma	3.68	0.89
Minnesota	3.84	0.88
Alabama	2.82	0.84
Mississippi	1.93	0.83
Alaska	2.29	0.64
West Virginia	2.09	0.52

Source: Office of Applied Studies (OAS), SAMHSA. (2006, September 27). *State estimates of past year methamphetamine use*. <<http://www.oas.samhsa.gov/2k6/stateMeth/stateMeth.htm>>

TREATMENT DATA

National treatment data from the Treatment Episode Data Set (TEDS) show an overall nationwide increase in the number of treatment admissions (to facilities licensed by state substance abuse agencies) for methamphetamine. In 1995, methamphetamine was the primary drug in 3.7 percent of all publicly funded treatment admissions. By 2004, methamphetamine treatment represented 8.2 percent of all publicly funded treatment admissions.⁸

⁸ United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. (September 2006). *Treatment episode data set (TEDS): 1994-2004*. (DASIS Series S-33, DHHS Publication No. (SMA) 06-4180).

National data on treatment for methamphetamine do not tell the entire story, however. In 2005, more than one-third of treatment admissions were related to methamphetamine usage in four states (Hawaii, Nevada, Idaho, and California). Among many western and mid-western states, methamphetamine cases accounted for more than 15 percent of treatment admissions. Exhibit 3 illustrates the regional differences in methamphetamine treatment from 1995 to 2005. For the years examined, methamphetamine use (for all adults and young adults) in Washington State was lower than many other states in the western U.S.

RESTRICTIONS ON SALE OF PSEUDOEPHEDRINE PRECURSORS

The most common ingredient in methamphetamine is pseudoephedrine or ephedrine, usually found in cold medicine. Pseudoephedrine is chemically changed to methamphetamine using household ingredients such as ether, paint thinner, acetone, anhydrous ammonia, iodine crystals, red phosphorus, drain cleaner, battery acid, and lithium. The process to create methamphetamine is fairly simple, but highly dangerous and toxic. For every pound of methamphetamine created, five to six pounds of toxic byproducts are generated.

Since January 2005, 42 states have enacted restrictions on the retail sale of ephedrine and pseudoephedrine products. These restrictions generally fall into the following categories:

- Display of products for sale.
- Who can sell and purchase products, along with requirements for logging transactions.
- Quantity of product that can be sold within a certain timeframe.
- Packaging.⁹

⁹ National Alliance for Model State Drug Laws (NAMSDL). (2006, September 13). *Restrictions on over the counter sales/purchases of products containing pseudoephedrine*. Alexandria, VA: NAMSDL.

Exhibit 3
Primary Methamphetamine/Amphetamine Treatment Admissions as a
Percentage of Total Admissions, by State: 1995 – 2005

State	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Hawaii	21.2	17.7	22.8	21.6	24.6	27.7	32.0	34.8	41.5	41.2	38.6
Nevada	21.9	17.1	22.2	21.6	20.8	22.3	23.7	26.9	27.9	28.9	34.5
Idaho	17.3	13.3	17.8	19.1	21.8	21.0	21.1	26.2	26.3	35.4	39.2
California	15.4	13.2	17.9	18.3	16.8	18.2	22.3	27.8	30.7	33.0	36.9
Utah	10.0	9.4	14.1	19.4	15.3	17.5	19.3	19.6	26.0	26.8	28.8
Oklahoma	11.4	8.5	13.1	13.5	15.2	18.8	19.5	19.6	20.7	22.2	24.1
Arkansas	10.5	8.2	10.9	13.0	15.9	17.9	17.4	19.9	22.0	22.0	24.7
Oregon	17.5	13.1	14.9	15.3	13.8	14.5	15.7	16.9	16.6	19.0	21.2
Iowa	12.9	9.2	14.8	12.0	10.9	13.0	15.5	17.9	19.6	19.7	20.3
Montana	9.3	8.9	12.2	13.0	10.1	11.0	12.9	13.5	14.4	15.5	18.1
Washington	8.2	6.2	8.3	9.7	9.7	12.1	14.5	14.5	14.8	16.1	18.8
Wyoming	-	-	10.7	12.8	9.8	10.6	10.2	13.2	15.3	17.7	-
Nebraska	2.7	2.5	4.8	7.9	7.6	11.6	15.9	18.7	18.3	13.7	14.0
Missouri	4.0	4.4	7.5	7.8	7.5	7.8	8.6	9.8	10.6	12.5	14.1
Kansas	4.3	4.0	7.2	7.0	6.2	7.0	8.3	9.7	10.0	11.7	13.8
North Dakota	2.0	2.4	3.8	3.3	3.3	4.6	7.0	11.6	14.0	13.8	18.1
Arizona	-	-	-	5.8	4.4	4.5	9.0	6.2	10.2	8.9	10.4
Texas	3.3	3.1	4.5	3.9	3.4	4.7	6.0	6.6	8.3	10.1	13.5
Minnesota	2.7	2.0	3.8	4.0	2.9	4.3	6.5	8.1	10.3	13.2	15.8
South Dakota	2.4	2.2	3.1	3.1	2.3	2.2	3.2	5.2	6.7	7.6	10.0
Colorado	2.6	2.2	3.4	2.7	2.7	3.2	3.6	3.8	5.2	7.0	8.1
Alabama	1.1	1.0	1.4	1.3	1.5	2.8	5.3	6.9	8.1	10.0	-
New Mexico	2.8	1.7	2.7	3.6	3.2	2.0	2.8	3.0	4.1	6.2	-
Mississippi	0.8	1.3	1.4	1.8	2.1	3.3	5.4	5.6	6.4	6.9	7.1
Georgia	1.7	1.4	2.7	2.4	1.4	2.1	2.8	4.9	8.1	9.6	12.7
Indiana	1.3	0.9	-	1.3	1.6	1.8	2.7	3.8	4.5	5.2	6.2
Kentucky	-	-	1.0	1.1	1.2	1.9	2.4	2.2	2.7	3.4	3.6
Louisiana	0.9	0.9	0.4	0.7	0.8	1.3	1.5	2.4	2.9	3.8	4.9
Alaska	0.7	0.4	0.6	0.6	0.8	1.0	1.3	1.6	1.8	-	-
Illinois	0.5	0.5	0.6	0.5	0.6	0.9	1.3	1.9	2.5	3.2	3.3
Florida	0.5	0.5	0.8	0.8	0.7	0.5	0.7	0.9	1.3	1.7	2.2
Tennessee	0.1	0.0	0.6	0.9	1.1	1.9	2.2	3.3	3.9	6.1	4.6
West Virginia	0.7	0.2	-	-	0.6	-	1.7	0.6	-	1.6	2.6
Virginia	0.3	0.4	0.7	0.6	0.5	0.4	0.6	0.8	0.9	1.0	1.4
Wisconsin	0.4	0.3	0.4	0.4	0.4	0.4	0.6	0.8	1.0	1.1	1.9
South Carolina	0.3	0.2	0.3	0.3	0.2	0.4	0.5	0.9	1.3	1.8	2.9
Pennsylvania	0.5	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.5	0.6
Michigan	0.3	0.2	0.3	0.3	0.3	0.3	0.5	0.7	0.9	1.3	1.4
New Hampshire	0.2	0.2	0.4	0.3	0.5	0.3	0.3	1.6	0.3	0.5	1.0
North Carolina	0.2	0.2	0.2	0.2	0.2	0.5	0.6	0.8	1.0	1.3	1.8
Maine	0.4	0.3	0.3	0.3	0.3	0.4	0.3	0.3	0.4	0.5	0.6
Ohio	0.3	0.3	0.3	0.3	0.2	0.2	0.3	0.5	0.6	0.8	1.1
Vermont	0.2	0.3	0.2	0.4	0.2	0.4	0.1	0.3	0.3	0.3	0.4
New Jersey	0.3	0.2	0.2	0.2	0.2	0.2	0.2	0.3	0.2	0.4	0.3
New York	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2
Delaware	0.1	0.2	0.2	0.1	0.2	0.1	0.1	0.2	0.2	0.2	0.4
Maryland	0.1	0.1	0.2	0.0	0.1	0.1	0.2	0.2	0.2	0.2	0.3
Connecticut	0.1	0.1	0.1	0.1	0.1	0.1	0.3	0.2	0.2	0.2	0.2
Massachusetts	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.3
Rhode Island	0.1	0.1	0.1	0.1	0.0	0.1	0.1	0.2	0.1	0.1	0.1
Total	3.7	3.2	4.2	4.2	4.3	4.8	5.7	6.8	7.5	8.2	-

Source: Treatment Episode Dataset (TEDS), sponsored by the Office of Applied Studies at the Substance Abuse and Mental Health Services Administration. <<http://webapp.icpsr.umich.edu/cocoon/SAMHDA-SERIES/00056.xml>>. (Methamphetamine/amphetamine admissions include admissions for both methamphetamine and amphetamine, but are primarily for methamphetamine.)

Federal and state laws regarding the sale and distribution of pseudoephedrine have changed significantly in recent years. In 2004, Oklahoma was the first state to pass legislation which reclassified ephedrine-based products as a Schedule V drug. This classification requires these drugs to be dispensed by a pharmacist. As of September 2006, ten states have passed similar statutes.¹⁰ "Scheduling," or classifying, a drug as a controlled substance also requires pharmacists to maintain accurate inventory of how the drugs are dispensed.

In 2005, Oregon lawmakers made ephedrine products a Schedule III controlled substance, which require a doctor's prescription. The reclassification in Oregon took effect July 1, 2006, and is the toughest restriction of pseudoephedrine in the country. In states that have moved pseudoephedrine to a Schedule III (prescription only) or Schedule V (behind pharmacy counter) drug, nearly all of these cold medicines have been reformulated using phenylephrine, a substitute decongestant that is not considered a precursor to methamphetamine. While Washington does not list pseudoephedrine as a controlled substance, lawmakers have enacted point of sale restrictions for pseudoephedrine, and the state has seen a significant reduction in methamphetamine labs in recent years (see page 7 for more detail).

Controlled Substances Act (CSA), Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970. Definitions of Drug Schedules (U.S. Code, Title 21, Section 812):

Schedule I

- Drug has a high potential for abuse.
- Drug has no currently accepted medical use in treatment in the United States.
- There is a lack of accepted safety for use of the drug under medical supervision.

Schedule II

- Drug has a high potential for abuse.
- Drug has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.
- Abuse of the drug may lead to severe psychological or physical dependence.

Schedule III

- Drug has a potential for abuse less than the drugs in Schedules I and II.
- Drug has a currently accepted medical use in treatment in the United States.
- Abuse of the drug may lead to moderate or low physical dependence or high psychological dependence.

Schedule IV

- Drug has a low potential for abuse relative to the drugs or other substances in Schedule III.
- Drug has a currently accepted medical use in treatment in the United States.
- Abuse of the drug may lead to limited physical dependence or psychological dependence relative to the drugs in Schedule III.

Schedule V

- Drug has a low potential for abuse relative to the drugs or other substances in Schedule IV.
- Drug has a currently accepted medical use in treatment in the United States.
- Abuse of the drug may lead to limited physical dependence or psychological dependence relative to the in Schedule IV.

¹⁰ Arkansas, Illinois, Iowa, Kansas, Minnesota, Missouri, New Mexico, Oklahoma, West Virginia, and Wisconsin have Schedule V classifications on pseudoephedrine.

THE COMBAT METHAMPHETAMINE EPIDEMIC ACT OF 2005

On March 9, 2006, The Combat Methamphetamine Epidemic Act of 2005 (Title VII of Public Law 109-177) was signed into federal law. This law requires all stores selling ephedrine-based products to place such products behind a counter or in a locked cabinet. Additionally:

- Regulated sellers must complete a self-certification process to train employees on new procedures.
- Customers are limited to purchasing 3.6 grams daily (regardless of the number of transactions).
- Over-the-counter sales are limited to 9 grams per customer every 30 days (mobile vendors and mail-order may only sell 7.5 grams per customer during a 30-day period).
- Customers must present identification and sign a bound logbook (containing their name, address, time of sale, and quantity purchased) to complete a purchase.¹¹

Since the federal requirements went into effect on September 30, 2006; the recent enactment of this law makes it difficult to assess the impact of these changes nationwide. All states must comply with these new regulations, but may also adopt more stringent requirements regarding the sale of pseudoephedrine. Washington and Oregon are among 17 states considered to have provisions stricter than the national standard.¹²

¹¹ United States Drug Enforcement Administration (DEA). (May 2006). *General information regarding the Combat Methamphetamine Epidemic Act of 2005*. <http://www.dea.gov/diversion.usdoj.gov/meth/cma2005_general_info.pdf>

¹² Office of National Drug Control Policy. (2006, November 30). *Pushing back against meth: A progress report on the fight against methamphetamine in the United States*. Washington D.C. <http://www.whitehousedrugpolicy.gov/publications/pdf/pushingback_against_meth.pdf>

WASHINGTON STATE VARIATIONS

In Washington State, it is unlawful to purchase (1) more than two packages or (2) a single package with more than three grams of ephedrine or pseudoephedrine in a 24 hour period (RCW 69.43.110). Individuals convicted of possessing more than 15 grams of ephedrine or pseudoephedrine may be guilty of a gross misdemeanor (RCW 69.43.120).

A 2003 Washington State administrative law requires that wholesalers of pseudoephedrine register with the State Board of Pharmacy and report certain transactions which may be considered "suspicious" (WAC 246-889-050). According to officials at the State Board of Pharmacy, ten wholesalers operated in the state at that time. After the requirements went into effect, eight surrendered their licenses and ceased operations.¹³

The new federal methamphetamine law passed in 2005 requires retailers to maintain a transaction log for the sale of ephedrine products. The 2006 Washington State Legislature also required retailers to maintain "Precursor Transaction Records" to gather information on the purchase of products containing ephedrine and other chemicals used in the manufacture of methamphetamine.

Both state and federal law allow logs to be maintained in written or electronic form. While the Washington State Department of Health has provided a sample log form,¹⁴ it is unclear the extent to which the logs are being implemented and maintained by retailers throughout the state. A workgroup convened by the State Board of Pharmacy is charged with working with law enforcement, prosecutors, and retailers to determine the most effective means of recording these transactions and deterring criminal activity (RCW 69.43.170). The workgroup's findings are due by November 2007.

¹³ Personal interview with James Doll, Pharmacist Investigator, Washington State Board of Pharmacy. December 4, 2006.

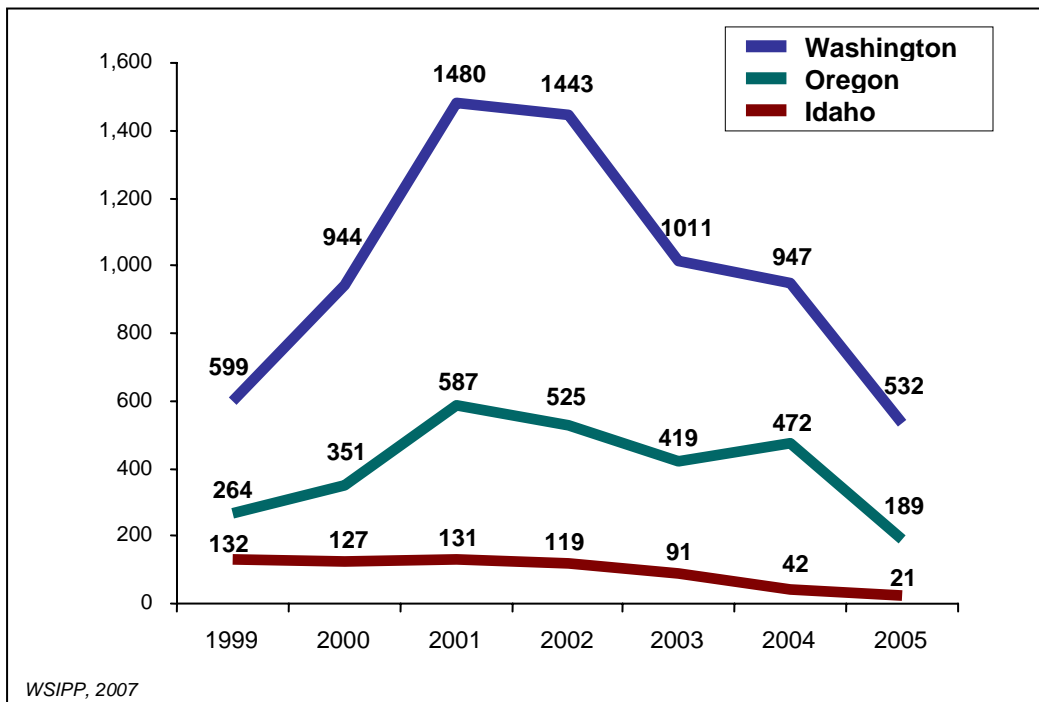
¹⁴ <https://fortress.wa.gov/doh/hpqa1/HPS4/Pharmacy/documents/690-148_EPP_Product_TransactionLog.pdf>

PRODUCTION AND SUPPLY OF METHAMPHETAMINE

New legislation, enhanced law enforcement efforts, and increased public awareness have led to a marked decline in the domestic production of methamphetamine. Law enforcement officials estimate that about 20 percent of the methamphetamine found on the street comes from domestic production, mainly local small toxic labs (STLs). By definition, small toxic labs are capable of producing not more than ten pounds of methamphetamine in one 24-hour production cycle.¹⁵

The Drug Enforcement Agency's National Clandestine Laboratory Seizure System tracks information on all types of clandestine laboratories seized within the United States. In 2002, Washington State ranked 3rd nationally in laboratory related seizures. By 2005, Washington's ranking dropped to 7th in the nation.¹⁶ Since peaking in 2001, the number of lab seizures in Washington, Oregon, and Idaho has declined significantly (Exhibit 4). Methamphetamine lab incidents in Washington dropped by almost 1,000—from 1,480 labs in 2001, to 532 labs in 2005.

Exhibit 4
Meth Clandestine Lab Seizures: 1999 – 2005



Source: DEA, El Paso Intelligence Center, Clandestine Laboratory Seizure System (CLSS). When a clandestine laboratory is seized, the seizure is captured either as a laboratory, chemical or equipment only seizure, or a dumpsite. If the seizure is considered a lab, there is a sufficient combination of equipment and chemicals that either has been or could be used in the manufacture. In a chemical seizure, chemicals or precursors used to make the drug are seized. In a dumpsite seizure, discarded laboratory equipment, empty chemical containers, waste by products, pseudoephedrine containers, etc. are seized.
<http://www.dea.gov/concern/map_lab_seizures.html>

¹⁵ Dana Hunt, Sarah Kuck, & Linda Truitt. (2006, January 31). *Methamphetamine use: Lessons learned* (DOJ Document Number 209730). Cambridge, MA: Abt Associates, p. 25.

¹⁶ Northwest High Intensity Drug Trafficking Area (HIDTA) Program. (March 2006). *Methamphetamine and related crime: The impacts of methamphetamine abuse*. Seattle: Office of National Drug Control Policy.

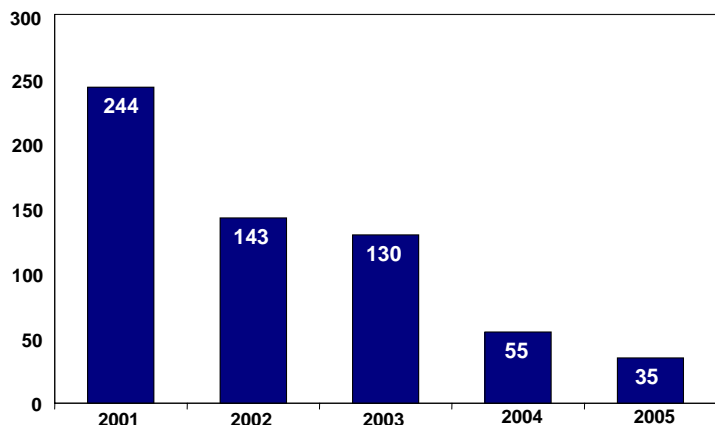
Restrictions on the sale of methamphetamine precursors primarily affect the supply and operation of small toxic labs. Based on data for lab seizures, it is believed that domestic methamphetamine production is decreasing. Large scale domestic production, in methamphetamine “superlabs,” has also declined during this period (Exhibit 5).

Superlabs are laboratories with a production capacity exceeding 10 pounds in a 24-hour period. The vast majority (90 to 95 percent) of these domestic superlabs have operated out of California.

With the decline in both small and large domestic labs, production of methamphetamine has shifted to Mexico. Roughly 80 percent of the methamphetamine used in the U.S. is thought to originate from these foreign superlabs.¹⁷ Indications are that foreign labs are effectively offsetting recent declines in domestic production and keeping methamphetamine readily available. HIDTA’s 2007 Threat Assessment points out that...

...“Mexican criminal groups, primarily distributing ice methamphetamine, have supplanted independent traffickers.... These groups pose an increased challenge to local law enforcement because they are often Mexico-based, well-organized, and experienced drug distributors.”¹⁸

Exhibit 5
Reported Methamphetamine Superlab Seizures in the United States: 2001 – 2005



WSIPP, 2007

Source: DEA, El Paso Intelligence Center, Clandestine Laboratory Seizure System (CLSS).
<<http://www.usdoj.gov/ndic/pubs21/21137/meth.htm>>

Shifts in the supply and distribution of methamphetamine require new strategies to limit the availability of this drug. Federal, state, and local law enforcement officials must frequently work in concert to share information and coordinate responses to the manufacture, smuggling, and distribution of methamphetamine across state lines.¹⁹ The remainder of this report focuses on seizures of methamphetamine and penalties in Washington, Oregon, and Idaho for methamphetamine traffickers.

¹⁷ Office of National Drug Control Policy. (June 2006). *Synthetic drug control strategy: A focus on methamphetamine and prescription drug abuse*. Washington, D.C.
<http://www.whitehousedrugpolicy.gov/publications/synthetic_drug_control_strat/synth_strat.pdf>

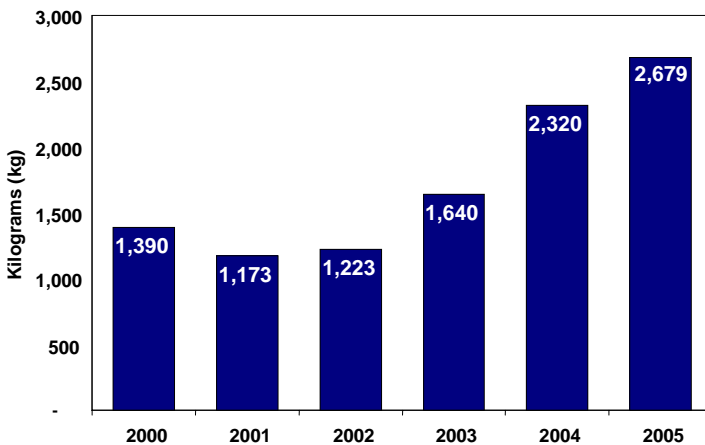
¹⁸ United States Department of Justice, National Drug Intelligence Center. (October 2006). *National drug threat assessment 2007*. Washington D.C., p. 7.
<<http://www.usdoj.gov/ndic/pubs21/21137/21137p.pdf>>

¹⁹ Office of National Drug Control Policy. (June 2006). *Synthetic drug control strategy*. p. 18.

METHAMPHETAMINE SEIZURES

The most comprehensive database on drug seizures comes from the Drug Enforcement Administration's Federal-wide Drug Seizure System (FDSS). This system contains information about seizures made within the United States by the Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), U.S. Customs Service, and U.S. Border Patrol. The rise in trafficking and importation of methamphetamine is indicated by increased seizures at the U.S. southwest border (Exhibit 6).

Exhibit 6
Increased Southwest Border
Methamphetamine Seizures



WSIPP, 2007

Source: Drug Enforcement Administration, Federal-wide Drug Seizure System (FDSS). (The Southwest Border Region encompasses 47 counties in the four Southwest Border States).

Between 2002 and 2005, total methamphetamine seized at the southwest United States border more than doubled, from 1,223 kilograms to 2,679 kilograms. While new markets for this methamphetamine are opening up in the Midwest and eastern United States, much of the methamphetamine coming from Mexico is trafficked through established markets in the western U.S.²⁰ Exhibit 7 shows the total methamphetamine seized by federal agents in Washington, Oregon, and Idaho between 2002 and 2005.

²⁰ National Drug Intelligence Center (NDIC). (November 2006). *National methamphetamine threat assessment 2007*. Washington D.C., p. 10. <<http://www.usdoj.gov/ndic/pubs21/21821/21821p.pdf>>

Exhibit 7
Federal Seizures of Methamphetamine by
Weight (kg): 2002 – 2005

Year	Idaho	Oregon	Washington
2002	26.6	37.0	58.2
2003	0	40.1	205.5
2004	6.9	123.7	73.0
2005	11.1	49.7	74.4

Source: Drug Enforcement Administration, Federal-wide Drug Seizure System (FDSS)

While seizures vary from year to year, methamphetamine seized in Washington State generally exceeds seizures in Oregon and Idaho. Washington State ranked 9th in the nation in 2005, based on total methamphetamine seized. Nationwide, trafficking of methamphetamine is expected to continue. In the 2005 National Association of Counties Survey, 85 percent of sheriffs reported that out-of-state importation is being used to meet continuing demand for methamphetamine. As a result, local law enforcement officials are looking beyond their borders to address changes in methamphetamine production and distribution. In the same National Association of Counties survey, 39 percent of sheriffs reported joining an intergovernmental or regional task force to address methamphetamine issues.²¹

While law enforcement focuses on cross-state and multi-jurisdictional efforts, policymakers can ensure that sentencing options for methamphetamine distribution are uniform, so traffickers do not find incentives to move across state borders. In Washington State border counties (such as Spokane or Asotin), law enforcement officials often witness traffickers making deals in Washington, rather than Idaho, to avoid stricter criminal sanctions.²² The following section examines methamphetamine sentencing statutes in Washington, Oregon, and Idaho.

²¹ National Association of Counties. (2006, July 18). *The criminal effect of meth on communities: A 2006 survey of U.S. counties*. Washington D.C.

²² Personal interview with Mark Couey, Captain, Washington State Patrol. January 5, 2007.

CRIMINAL SENTENCING STATUTES FOR METHAMPHETAMINE

The decision to prosecute a drug trafficking offense at the state or federal level depends on a number of factors, including: which statute most closely fits the criminal conduct, punishment options in each system, and whether the defendant is a major trafficker. The quantity of drugs can also influence the decision by federal prosecutors to try a case in U.S. District Court.

In 1986, the federal government enacted mandatory minimum sentences for drug trafficking cases. The minimum sentences are based on the offender's prior convictions and the type and quantity of the drug being trafficked. The Methamphetamine Trafficking Penalty Enhancement Act of 1998 reduced the overall quantity of methamphetamine necessary to trigger mandatory minimum sentences in federal court by one-half (from 10 grams to 5 grams for a mandatory five-year sentence).²³ Exhibit 8 lists the quantities of drug that can trigger minimum sentences.

Exhibit 8

Mandatory Minimum Sentences for Federal Drug Trafficking by Substance and Weight

Type of Drug	Mandatory Five-Year Sentence	Mandatory Ten-Year Sentence
Crack Cocaine	5g	50g
Powder Cocaine	500g	5kg
Heroin	100g	1kg
LSD	1g	10g
Marijuana	100kg, or 100 plants	1,000kg, or 1,000 plants
Methamphetamine	5g (pure) 50g (mixture)	50g (pure) 500g (mixture)
PCP	10g (pure) 100g (mixture)	100g (pure) 1kg (mixture)

Source: <<http://www.dea.gov/agency/penalties.htm>>. (Mixtures contain a detectable amount of the substance. "Ice," or crystal methamphetamine, for example, is a form of methamphetamine that has been "cut" with another substance and is considered a less pure form of the drug.)

²³ United States Sentencing Commission. (November 1999). *Methamphetamine: Final report*. Washington D.C. <<http://www.uscc.gov/publicat/methreport.pdf>>

While a small number of drug trafficking cases are prosecuted at the federal level (an estimated 10 percent),²⁴ drug cases represent a significant share (35 to 40 percent) of all cases prosecuted in U.S. District Court. Since federal sentences for drug trafficking crimes are typically higher than sentences imposed by state law, it is important to examine trends in federal sentencing for methamphetamine and other drugs. Exhibit 9 shows the total number of federal offenders sentenced for all drug crimes and crimes involving methamphetamine since 1996.

Exhibit 9

Drug Offenders Sentenced in U.S. District Court 1996 – 2005

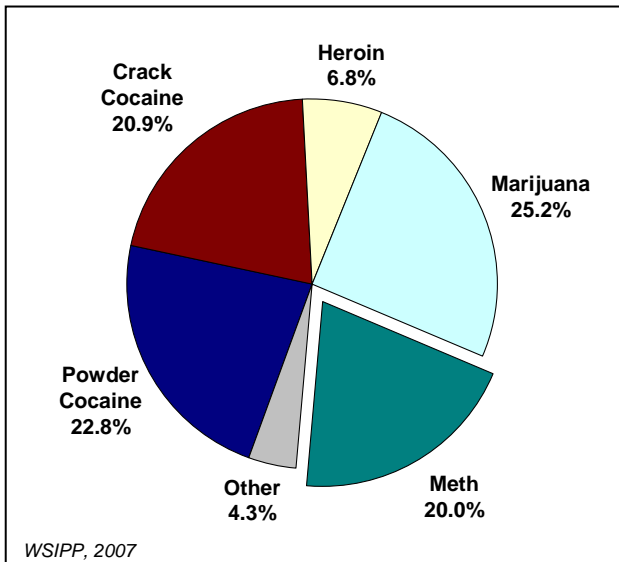
Fiscal Year	Total Number of Drug Offenses	Drug Offenses for Methamphetamine (Proportion)
1996	17,172	1,623 (9%)
1997	18,813	1,934 (10%)
1998	20,266	2,306 (11%)
1999	22,499	2,847 (13%)
2000	23,376	3,358 (14%)
2001	24,299	3,414 (14%)
2002	25,666	3,942 (15%)
2003	26,023	4,456 (17%)
2004	24,219	4,675 (19%)
2005	24,561	4,839 (20%)

Source: U.S. Sentencing Commission. *Sourcebook of Federal Sentencing Statistics, Table 33*.

Since 1996, methamphetamine-related crimes have increased overall and more than doubled as a share of all drug crimes prosecuted at the federal level. In 1996, methamphetamine crimes represented about 9 percent of all federal drug cases. By 2005, one out of five (20 percent) federal sentences for drug crimes involved methamphetamine. Exhibit 10 displays the relative proportion of federal sentences for all types of drugs.

²⁴ Bureau of Justice Statistics, National Judicial Reporting Program. (December 2004). *Felony sentences in state courts*. Washington D.C., NCJ 206916. <<http://www.ojp.usdoj.gov/bjs/pub/pdf/fssc02.pdf>>

Exhibit 10
Federal Sentences for Drug Offenses
Distribution by Drug Type, 2005



Source: U.S. Sentencing Commission, *Sourcebook of Federal Sentencing Statistics*, 2005.
<http://www.ussc.gov/ANNRPT/2005/Fig-a.pdf>. (About 96 percent of federal drug cases involve trafficking.)

The growth in methamphetamine cases prosecuted at the federal level may be influenced by a reduction in the amount of methamphetamine necessary to meet minimum mandatory sentences. As stated earlier, in 1998, Congress reduced the total weight of methamphetamine that would trigger a minimum sentence by one-half (from 10g to 5g for a five-year sentence and from 100g to 50g for a ten-year sentence). While the total *number* of federal sentences for methamphetamine crimes increased after this period, the *distribution* of sentences for methamphetamine did not change.

Exhibit 11
Methamphetamine-Related Federal Sentences
1996 – 2005

Year	No Mandatory Drug Minimum	Five-Year Mandatory Drug Minimum	Ten-Year Mandatory Drug Minimum
1996	438 (27.0%)	370 (22.8%)	815 (50.2%)
1997	409 (21.2%)	570 (29.6%)	949 (49.2%)
1998	428 (18.6%)	564 (24.5%)	1,312 (56.9%)
1999	631 (22.2%)	796 (28.0%)	1,420 (49.9%)
2000	678 (20.2%)	948 (28.2%)	1,732 (51.6%)
2001	839 (24.6%)	877 (25.7%)	1,698 (49.7%)
2002	1,017 (25.8%)	982 (24.9%)	1,943 (49.3%)
2003	1,246 (28.0%)	1,108 (24.9%)	2,102 (47.2%)
2004	1,253 (26.8%)	1,219 (26.1%)	2,203 (47.1%)
2005	1,201 (24.8%)	1,163 (24.0%)	2,475 (51.1%)

Source: U.S. Sentencing Commission, *Sourcebook of Federal Sentencing Statistics*, Table 43.

As Exhibit 11 indicates, roughly half of all federal defendants for methamphetamine crimes received the highest mandatory minimum sentence (10 years) and about one-quarter received sentences of five years or more. In 2005, federal judges imposed an average sentence of eight years for methamphetamine cases (median 6.5 years).²⁵

At the state level, statutory language and sentencing options for methamphetamine-related crimes vary, so it is more difficult to compare sentencing practices for these crimes. The final section of this report examines differences in methamphetamine sentences in Washington, Oregon, and Idaho.

²⁵ U.S. Sentencing Commission. (2005). *Sourcebook of Federal Sentencing Statistics*, 2005.
<http://www.ussc.gov/ANNRPT/2005/fig-j-pOST.pdf>

STATE STATUTES

Washington

Washington State's 1981 Sentencing Reform Act (SRA) established standard sentence ranges for felony offenses (RCW 9.94). Seriousness of the current offense, combined with the number and type of the offender's current and prior convictions are used to determine a standard sentence range.

Alternatives to the standard sentence exist for certain types of offenders. In 1999, Washington lawmakers established the Drug Offender Sentencing Alternative (DOSA). Drug offenders with non-violent, non-sex offense convictions can receive a reduction in standard sentencing combined with mandatory chemical dependency treatment and community monitoring.

The 2002 Washington State Legislature sought to give judges more discretion in sentencing drug offenders.²⁶ A new "drug grid" with standard sentencing for drug offenses took effect in 2004 (Exhibit 12).

Exhibit 12
Drug Offense Sentencing Grid

		Offender Score		
		0 to 2	3 to 5	6 to 9 or more
Seriousness Level	III	51 to 68 months	68+ to 100 months	100+ to 120 months
	II	12+ to 20 months	20+ to 60 months	60+ to 120 months
	I	0 to 6 months	6+ to 18 months	12+ to 24 months

Source: RCW 9.94A.517
<<http://apps.leg.wa.gov/rcw/default.aspx?cite=9.94a.517>>

According to the state's Sentencing Guidelines Commission data, approximately 57 percent of drug offenders were sentenced under the drug grid in 2004 (the remainder received sentences based on the standard sentencing grid).

²⁶ Allison Colker. (2004, December 31). *Sentencing reform and diversion, a combined approach*. Washington D.C.: National Conference of State Legislatures. <<http://www.ncsl.org/programs/health/sentref.htm>>

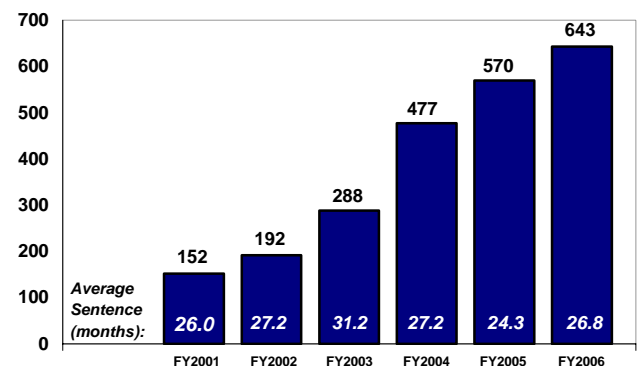
Methamphetamine-related crimes classified in the drug sentencing grid include (see Appendix A for detail):

- Manufacture of methamphetamine, Level III
- Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine, Level III
- Deliver or possession with intent to deliver methamphetamine, Level II

For offenders with the highest offender score (many prior convictions or concurrent crimes), the maximum sentence for all methamphetamine crimes is 10 years in prison. For offenders with a low offender score (first time or less severe criminal history), delivery of methamphetamine carries a lower sentence compared to manufacturing the drug.

Felony sentences for delivery of methamphetamine increased significantly in the last eight years. Exhibit 13 displays the number of felony sentences for methamphetamine delivery (first offense) and the average number of months offenders were sentenced for this crime.

Exhibit 13
Total Felony Sentences for Methamphetamine Delivery (Completed Crimes) Washington State, 2001 – 2006



WSIPP, 2007

Source: Washington State Sentencing Guidelines Commission. *Statistical Summary of Adult Felony Sentencing*. Olympia: Washington State Sentencing Guidelines Commission.

Note: Delivery totals do not include anticipatory crimes, such as conspiracy/attempt to deliver methamphetamine. These crimes are not ranked on the drug grid, and carry a jail sentence of up to 12 months.

Between 1999 and 2003, a decreasing proportion of offenders convicted of methamphetamine delivery received sentences at or above the standard range (Exhibit 14). Since the enactment of the drug sentencing grid in 2004, a higher percentage of offenders with methamphetamine delivery crimes receive sentences in line with standard sentence ranges.²⁷

Exhibit 14
Percentages of Sentences for Methamphetamine Delivery Falling Within or Above Standard Range

Fiscal Year	Percentage Within or Above Standard Range
1999	97.6%
2000	77.3%
2001	63.2%
2002	61.4%
2003	61.8%
2004	77.1%
2005	84.6%
2006	88.2%

Source: Washington State Sentencing Guidelines Commission. *Statistical Summary of Adult Felony Sentencing*. Olympia: Washington State Sentencing Guidelines Commission.

By comparison, since 2004, the number of sentences for methamphetamine manufacturing in Washington State has decreased. Exhibit 15 shows that sentences for methamphetamine manufacturing and possession of precursors (with the intent to manufacture) went up from 1999 to 2004 before falling in recent years.

Exhibit 15
Adult Felony Sentences for Manufacture of Methamphetamine (Completed Crimes), Washington State 1999 – 2006

Fiscal Year	Sentences for Meth Mfg., First Offense (Average Sentence in Months)	Sentences for Possession of Precursors, First Offense (Average Sentence in Months)
1999	11 (69.3)	11 (38.1)
2000	40 (58.4)	24 (28.7)
2001	89 (46.9)	59 (26.7)
2002	140 (51.5)	83 (23.2)
2003	168 (53.0)	119 (31.1)
2004	174 (50.8)	117 (32.3)
2005	140 (45.5)	72 (43.4)
2006	132 (49.6)	21 (40.7)

Source: Washington State Sentencing Guidelines Commission. *Statistical Summary of Adult Felony Sentencing*. Olympia: Washington State Sentencing Guidelines Commission.

Note: Manufacturing totals do not include anticipatory crimes, such as conspiracy/attempt to manufacture methamphetamine. These crimes are not ranked on the drug grid, and carry a jail sentence of up to 12 months.

Changes in the availability of pseudoephedrine (discussed previously) likely contributed to the drop in number of sentences related to manufacturing methamphetamine. In Fiscal Year 2006, only 21 sentences were given to adults for possessing precursors with the intent to manufacture methamphetamine (compared with 117 in 2004). Sentences during this period ranged from 4 to 5 years for manufacturing methamphetamine to 2 to 3 years for possessing precursors (with the intent to manufacture).

²⁷ Prior to the establishment of Washington's drug grid, delivery of methamphetamine (RCW 69.50.401(2)(b)) was a level 8 crime, with a minimum standard sentence of 21 months.

Oregon

Oregon adopted standard sentencing guidelines for felony offenses in 1989. Like Washington, these guidelines set sentences based on seriousness of the crime of conviction and the offender's criminal history. Judges retain the discretion to depart from these sentences for "substantial and compelling" reasons.

The Oregon Sentencing Grid (Appendix B) includes 11 classifications that rate the seriousness of the crime. Nine categories (A-I) are used to determine sentences based on the offender's criminal history. Oregon judges issue sentences for three different types of methamphetamine crimes (ORS 475.900):

1. **Aggravated Drug Offenses:** Aggravated drug offenses are classified as **Crime Category 8** and include a *standard sentence of 16 to 45 months*, depending on the offender's criminal history. The offenses that are considered for this offense include:
 - a. Delivery or manufacture where 10 grams or more of methamphetamine are present.
 - b. Possession, delivery, or manufacture of methamphetamine, where the crime is considered a "commercial drug offense."²⁸
 - c. Manufacture of methamphetamine (precursors present).²⁹

If the offender has no more than one adult conviction for non-person offenses and no prior convictions related to methamphetamine crime, the offender may receive a probation sentence of three years for category 8 offenses.

2. **Major Drug Offenses:** Major drug offenses are grouped as **Crime Category 6** offenses and carry a *standard sentence of 90 days in jail to 30 months in prison*. These violations involve:
 - a. Delivery of methamphetamine (for money) with less than 10 grams present, or
 - b. Possession of 10 or more grams of methamphetamine (without delivery).
3. **Drug Offenses:** Standard drug offenses constitute any violation of controlled substance laws not covered in sections 1 or 2 and are classified as:
 - a. **Crime Category 4** if the violation involves delivery or manufacture of methamphetamine. These offenses carry a sentence of 60 days in jail to 11 months in prison.
 - b. **Crime Category 1** if the violation involves possession of a controlled substance, including methamphetamine (punishable by 30 to 90 days in jail).

Statistics on Oregon's sentencing trends for methamphetamine-related crimes are not publicly available. While Oregon State lawmakers have made some recent changes in criminal statutes for possession and distribution, legislative efforts in Oregon have focused primarily on restricting the sale of pseudoephedrine.

²⁸ OR 475.900 (1)(b) defines a commercial drug offense when three of the following factors are present: (1) delivery of substance for money, (2) offender possesses \$300 or more in cash, (3) firearm present, (4) drug packaging or manufacturing material present, (5) drug transaction or customer lists present, (6) stolen property present, (7) modification of residence to facilitate offense, (8) public lands used for manufacture, (9) offender created security measures with potential for injury, or (10) minimum quantities in possession (8 grams of methamphetamine).

²⁹ This provision was added in 2005 (Oregon Senate Bill 907).

Idaho

Idaho does not use a sentencing grid for felony sentences, instead grants judges wide discretion in sentencing decisions (I.C. 19-2521). Idaho statute does specify several mandatory minimum sentences for certain crimes, however, including drug trafficking (Appendix C).

Simple possession of a Schedule I or Schedule II (such as methamphetamine) narcotic is punishable by up to seven years in prison under Idaho law (I.C. 37-2732). Penalties for the manufacture and delivery of controlled substances established in Idaho law are outlined in Exhibit 16.

Exhibit 16
Penalties for Methamphetamine-Related Crime, Idaho

Crime	Mandatory Minimum	Maximum Prison Term
<i>Trafficking in methamphetamine by manufacturing</i> (I.C. 37-2732B (3))	Five (5) Years	Life
<i>Trafficking in methamphetamine</i> (I.C. 37-2732B (4))		
28-199 grams	Three (3) Years	Life
200-399 grams	Five (5) Years	
400 grams or more	Ten (10) Years	
<i>Trafficking in immediate precursors of methamphetamine</i> (I.C. 37-2732B (5)) ³⁰		
25-499 grams pseudoephedrine	n/a	Ten (10) Years
500 grams or more pseudoephedrine	Ten (10) Years	Life

Source: Idaho Uniform Controlled Substances Code (see Appendix C for statute text).

Certain conditions can double the mandatory minimum sentences for methamphetamine crimes in Idaho. A second conviction for methamphetamine trafficking results in a mandatory minimum sentence that is twice as long as the sentence previously required (I.C. 37-2732B (7)). Adults who distribute controlled substances to juveniles (under age 18) may also face mandatory minimum sentences that are twice as long (I.C. 37-2737).

Official figures on the number of individuals sentenced in Idaho under the methamphetamine manufacturing and trafficking statutes are not available. Among all Northwest states, however, Idaho has the most specific statutes and longest minimum sentences for trafficking methamphetamine. While mandatory minimum sentences may increase incarceration costs, policymakers in neighboring states should examine how effective specific deterrents for methamphetamine crime are in reducing trafficking and distribution of the drug.

³⁰ For 500g or more of ephedrine, and pseudoephedrine and minimum quantities of methylamine, methyl formamide, phenylacetic acid, and phenylacetone.

EXPERT OPINIONS

In the last several years, the federal government and a majority of states have altered state laws to address the increased prevalence of methamphetamine and methamphetamine-related crimes. While the overall effects of these changes may not be known for some time, experts in law enforcement and the legal community interviewed (see page 20) recommend that Washington State policymakers consider the following:

- *Adoption of tiered sentences that impose penalties based on trafficking different quantities of methamphetamine or methamphetamine precursors. Specifically, sentences for delivery of methamphetamine (Level II seriousness) should be raised to a Level III crime (for sufficient quantity).*

For interstate trafficking cases, or cases with major traffickers, many state and local officials would prefer to see a larger federal role in the prosecution of offenses. Both Idaho and Oregon, however, specify alternate sentences for the possession or delivery of methamphetamine based on quantity. The state of Idaho, in particular, carries stricter sanctions for trafficking methamphetamine.

- *Revision of criminal statutes to prohibit possession of substantial precursors (without having to establish “intent to manufacture”).*

The supply and distribution of precursors for methamphetamine are shifting. The Attorney General’s task force on methamphetamine recommends creating “a crime outside the scope of manufacturing, for possession of large quantities of precursor chemicals used in the manufacturing process.”³¹

In addition to penalizing the trafficking of methamphetamine, Idaho also has a statute that establishes sanctions for trafficking in the “immediate precursors of methamphetamine.”

- *Monitor the effects of recent federal changes restricting the sale of pseudoephedrine before determining if more changes are necessary.*

While many states have listed pseudoephedrine as a Schedule III (prescription only) or Schedule V (pharmacist dispensed) drug, the availability of pseudoephedrine appears to have declined in Washington without these changes. None of the experts interviewed for this research expressed the view that further changes in the classification of pseudoephedrine are necessary.

As measured by treatment data and surveys on prevalence, usage of methamphetamine in Washington State does not exceed usage in neighboring states. It is unclear if tougher criminal sentences would reduce the number of methamphetamine addicts and users.

Drug-trafficking organizations and distributors, however, now play a greater role in the spread of methamphetamine across state lines. Criminal sentences and laws involving methamphetamine trafficking should also evolve to keep pace with the changing face of our region’s methamphetamine problem.

³¹ Washington State Attorney General’s Office (November 2005). *Operation: Allied against meth – Task Force 2005 Final Report*. Olympia: Washington State Office of the Attorney General, p. 41.

APPENDIX A: WASHINGTON STATE METHAMPHETAMINE-RELATED STATUTES

RCW 69.50.401

Prohibited acts: A — Penalties.

Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(2) Any person who violates this section with respect to:

(a) A controlled substance classified in Schedule I or II which is a narcotic drug or flunitrazepam, including its salts, isomers, and salts of isomers, classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(b) Amphetamine, including its salts, isomers, and salts of isomers, or methamphetamine, including its salts, isomers, and salts of isomers, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

RCW 69.50.440

Possession with intent to manufacture — Penalty.

(1) It is unlawful for any person to possess ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, including its salts, isomers, and salts of isomers.

(2) Any person who violates this section is guilty of a class B felony and may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost.

APPENDIX B: THE OREGON SENTENCING GUIDELINES GRID

Crime Seriousness	A	B	C	D	E	F	G	H	I	Prob Term	Max Depart	PPS
11	225-269	196-224	178-194	164-177	149-163	135-148	129-134	122-128	120-121	5 Years		3 Years
10	121-130	116-120	111-115	91-110	81-90	71-80	66-70	61-65	58-60			
9	66-72	61-65	56-60	51-55	46-50	41-45	39-40	37-38	34-36			
8	41-45	35-40	29-34	27-28	25-26	23-24	21-22	19-20	16-18	3 Years	18 Mos.	2 Years
7	31-36	25-30	21-24	19-20	16-18	180-90	180-90	180-90	180-90			
6	25-30	19-24	15-18	13-14	10-12	180-90	180-90	180-90	180-90	2 Years	12 Mos.	1 Year
5	15-16	13-14	11-12	9-10	6-8	180-90	120-60	120-60	120-60			
4	10-11	8-9	120-60	120-60	120-60	120-60	120-60	120-60	120-60	2 Years	6 Mos.	1 Year
3	120-60	120-60	120-60	120-60	120-60	120-60	90-30	90-30	90-30			
2	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	1½ Years	6 Mos.	1 Year
1	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30			

The presumptive grid block for any felony conviction is the intersection where the crime seriousness ranking and the criminal history classification meet. Grid blocks in the shaded area represent the range of presumptive imprisonment and post-prison supervision (PPS). Non-shaded grid blocks are presumptive sentences of probation (Prob. Term) with local custodial sanctions in days (upper number) and maximum jail days without a departure (lower number).

The upward dispositional departure maximum sentence (Max Dispositional Depart) for a presumptive probation sentence shall be:

- Up to six months for offenses classified in Crime Categories 1 and 2, or grid blocks 3-G, 3-H and 3-I;
- Up to twelve months for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I and 5-G through 5-I; and
- Up to eighteen months for offenses classified in grid blocks 5-F, 6-F through 6-I, and 7-F through 7-I.

Under certain conditions a probation sentence may be imposed in grid blocks 8-G, 8-H and 8-I without a departure.

A	The criminal history includes three or more person felonies in any combination of adult convictions or juvenile adjudications.
B	The criminal history includes two person felonies in any combination of adult convictions or juvenile adjudications.
C	The criminal history includes one adult conviction or juvenile adjudication for a person felony; and one or more adult conviction or juvenile adjudication for a non-person felony.
D	The criminal history includes one adult conviction or juvenile adjudication for a person felony but no adult conviction or juvenile adjudications for a non-person felony.
E	The criminal history includes four or more adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
F	The criminal history includes two or three adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
G	The criminal history includes four or more adult convictions for Class A misdemeanors; one adult conviction for a non-person felony; or three or more juvenile adjudications for non-person felonies, but no adult conviction or juvenile adjudication for a person felony.
H	The criminal history includes no adult felony conviction or juvenile adjudication for a person felony; no more than two juvenile adjudications for non-person felonies; and no more than three adult convictions for Class A misdemeanors.
I	The criminal history does not include any juvenile adjudication for a felony or any adult conviction for a felony or Class A misdemeanor.

APPENDIX C: IDAHO STATE METHAMPHETAMINE STATUTES

TITLE 37, FOOD, DRUGS, AND OIL, CHAPTER 27 - UNIFORM CONTROLLED SUBSTANCES 37-2732B. TRAFFICKING -- MANDATORY SENTENCES.

(3) Any person who knowingly manufactures or attempts to manufacture methamphetamine and/or amphetamine is guilty of a felony which shall be known as "trafficking in methamphetamine and/or amphetamine by manufacturing." Any person convicted of trafficking in methamphetamine and/or amphetamine by attempted manufacturing shall be sentenced to a mandatory minimum fixed term of imprisonment of two (2) years and not to exceed fifteen (15) years imprisonment and fined not less than ten thousand dollars (\$10,000). Any person convicted of trafficking in methamphetamine and/or amphetamine by manufacturing shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and not to exceed life imprisonment and fined not less than twenty-five thousand dollars (\$25,000). The maximum number of years of imprisonment for trafficking in methamphetamine and/or amphetamine by manufacturing shall be life, and the maximum fine shall be one hundred thousand dollars (\$100,000).

(4) Any person who knowingly delivers, or brings into this state, or who is knowingly in actual or constructive possession of, twenty-eight (28) grams or more of methamphetamine or amphetamine or of any mixture or substance containing a detectable amount of methamphetamine or amphetamine is guilty of a felony, which felony shall be known as "trafficking in methamphetamine or amphetamine." If the quantity involved:

(A) Is twenty-eight (28) grams or more, but less than two hundred (200) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars (\$10,000);

(B) Is two hundred (200) grams or more, but less than four hundred (400) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and fined not less than fifteen thousand dollars (\$15,000);

(C) Is four hundred (400) grams or more, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than twenty-five thousand dollars (\$25,000).

(D) The maximum number of years of imprisonment for trafficking in methamphetamine or amphetamine shall be life, and the maximum fine shall be one hundred thousand dollars (\$100,000).

(5) Any person who knowingly manufactures, delivers, brings into this state, or who is knowingly in actual or constructive possession of the below-specified quantities of any of the following immediate precursors to methamphetamine or amphetamine (namely ephedrine, methylamine, methyl formamide, phenylacetic acid, phenylacetone, or pseudoephedrine) as defined in section 37-2707(g)(1), Idaho Code, or any compound, mixture or preparation which contains a detectable quantity of these substances, is guilty of a felony which shall be known as "trafficking in immediate precursors of methamphetamine or amphetamine." If the quantity:

(A) Of ephedrine is five hundred (500) grams or more;

(B) Of methylamine is one-half (1/2) pint or more;

(C) Of methyl formamide is one-quarter (1/4) pint or more;

(D) Of phenylacetic acid is five hundred (500) grams or more;

(E) Of phenylacetone is four hundred (400) grams or more;

(F) Of pseudoephedrine is five hundred (500) grams or more;

such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than twenty-five thousand dollars (\$25,000). The maximum number of years of imprisonment for trafficking in immediate precursors of methamphetamine or amphetamine in the quantities specified in paragraphs (A) through (F) of this subsection (5) shall be life, and the maximum fine shall be one hundred thousand dollars (\$100,000). If the quantity of pseudoephedrine is twenty-five (25) grams or more, but less than five hundred (500) grams, such person shall be sentenced to a term of imprisonment of up to ten (10) years and fined not more than twenty-five thousand dollars (\$25,000).

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Priscilla Lisicich, Chair, Governor's Council on Substance Abuse

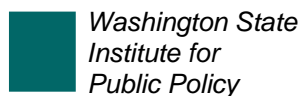
Lee Lingard, Director, Washington MethWatch

Scott Smith, Chief, Mountlake Terrace Police Department

Keith Neely, Demand Reduction Coordinator, Drug Enforcement Administration

For further information, please contact Mason Burley (360) 528-1645 or mason@wsipp.wa.gov.

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