



METHAMPHETAMINE

Final Report
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Methamphetamine - Final Report

I. Introduction

This is the Final Report of the informal Methamphetamine Policy Team regarding implementation of the Methamphetamine Trafficking Penalty Enhancement Act of 1998. As explained more fully in Part II, *infra*, this legislation increased the statutory mandatory minimum penalties for methamphetamine offenses by cutting in half the quantity of the pure substance and methamphetamine mixture that triggers the separate five- and ten-year mandatory minimums. Congress took this action on the heels of 1997 Commission amendments to the drug guidelines that, in turn, responded to congressional directives enacted the prior year. During consideration of the 1998 bill, there were statements by some of its proponents that the bill was necessary, in part, because the Commission's response had been inadequate.

The 1998 legislation set the quantities of drug necessary for the five- and ten-year mandatory minimum sentences at:

meth-actual	5 grams invokes a 5 year penalty 50 grams invokes a 10 year penalty;
meth-mix	50 grams invokes a 5 year penalty 500 grams invokes a 10 year penalty

The Commission is not required by the legislation to amend the guidelines. Should no action be taken, the mandatory minimums established by Congress will trump the guidelines at sentencing but the impact of the Congressional increase will not be felt throughout the remainder of the Drug Quantity Table.

Part I of the report briefly describes the background and current prevalence of the methamphetamine problem in the United States, including a discussion of the extent to which USSC data track the spread of methamphetamine trafficking. Part II summarizes the recent statutory and sentencing guideline history of sentencing policy for methamphetamine offenses prosecuted in federal courts. Part III discusses the demographic and other characteristics of methamphetamine offenders using data collected by the Commission. Part IV outlines policy options for responding to the 1998 Act and discusses the prison impact of the several options.

What is Methamphetamine?

The National Institute of Drug Abuse (NIDA) describes methamphetamine as “. . . a powerfully addictive stimulant that dramatically affects the central nervous system . . . [i]t is a white, odorless, bitter-tasting crystalline powder that easily dissolves in water or alcohol . . . [m]ethamphetamine’s chemical structure is similar to that of amphetamine, but it has more pronounced effects on the central nervous system. Like amphetamine, it causes increased activity, decreased appetite, and a general sense of well-being. The effects of methamphetamine can last 6 to 8 hours. After the initial ‘rush’, there is typically a state of high agitation that in some individuals can lead to violent behavior. Methamphetamine is a Schedule II stimulant, which means it has a high potential for abuse and is available only through a prescription that cannot be refilled.” It comes in many forms and can be smoked, snorted, orally ingested, or injected.¹ Nicknames for methamphetamine include: “‘speed,’ ‘meth,’ and ‘chalk.’ In its smoked form it is often referred to as ‘ice,’ ‘crystal,’ ‘crank,’ and ‘glass.’”



Multiple Agencies Document the Increase and Spread of Methamphetamine Use

A changing pattern and prevalence of methamphetamine use and trafficking has been documented across indicators used to monitor drug activity in the United States. Findings of increasing use have been documented by law enforcement, the treatment community, and national prevalence surveys. Law enforcement and drug treatment agencies have noted that methamphetamine use, which has traditionally been described as a small problem confined primarily to several western states, has increased dramatically during the 1990's, spreading across the country and going beyond the traditional user groups (white, male, blue collar workers).² The Community Epidemiology Working Group (CEWG), an international group of researchers sponsored by the National Institute on Drug Abuse, noted the changing demographic characteristics of methamphetamine users in their June 1999

¹National Institute on Drug Abuse (NIDA), National Institute of Health (NIH), *Methamphetamine Abuse and Addiction*, Pub. No. 98-4210 (April 1998).

²*Id.*

Advance Report.³ In that report, using DAWN⁴ data, they found “substantial” increases in hospital emergency room “mentions” among Hispanics, women, and youth. In that same publication, they also note that in some areas of the country methamphetamine abuse is appearing in the “club scene” among men who have sex with men (MSM).

In response to concern regarding the spreading prevalence of this substance, Congress held hearings in 1996 to determine the sufficiency of then current penalties for trafficking methamphetamine. In testimony before the House Judiciary Subcommittee on Crime on September 5, 1996, Harold Wankel, Chief of Operations for the Drug Enforcement Administration (DEA), described the sources of the increased methamphetamine availability, stating:

“Methamphetamine, which DEA regulates as a Schedule II substance, is the most prevalent controlled substance clandestinely manufactured in the United States. Between January 1, 1994, and July 31, 1996, the Drug Enforcement Administration (DEA) has been involved in the domestic seizure of 1,015 methamphetamine laboratories. From January to June of this year [1996], we have seized 365 clandestine laboratories, almost all of them used to produce methamphetamine.”⁵

Mr. Wankel’s 1996 testimony continues:

“The majority of the methamphetamine available in the United States is controlled by traffickers from Mexico who manufacture the product in Mexico, or in major labs in California and the Southwest. . . . Traditionally meth trafficking and use had been limited to California and a small number of other places where motorcycle gangs controlled the trade. However, with the emergence of strong and ambitious traffickers from Mexico, and after the collapse of the Cali mafia, methamphetamine production

³The Community Epidemiology Working Group (CEWG) is an international group of researchers, sponsored by NIDA, who meet semiannually to analyze a variety of public health indicators to determine geographic and drug specific trends. They are responsible for providing ongoing community-level public health surveillance of drug use and abuse. CEWG, NIH, *Epidemiologic Trends in Drug Abuse Advance Report*, June 1999.

⁴The Drug Abuse Warning Network is an ongoing national data collection effort sponsored by the Substance Abuse and Mental Health Services Administration (SAMHSA) within the National Institute on Drug Abuse. It is an annual survey of a sample of drug-related emergency room visits as well as drug-related death information from selected medical examiners’ and coroners’ offices. It is one of several indicators used to track trends in the use of illicit substances. When the cause of a patient’s complaint, bringing them to an hospital emergency room, is attributable to ingestion of a drug, that specific drug is documented as a “mention.” The unit of measure documented in that analysis is the emergency room visit and not the patient. A single patient may present for multiple distinct visits, each of which will be counted.

⁵At a more recent Senate hearing held on July 28, 1999, Judiciary Committee Chairman Orin Hatch, in his opening statement, reported that last year 5,786 methamphetamine and amphetamine laboratories were seized by the Drug Enforcement Administration and state and local law enforcement.

increased and abuse have [sic] skyrocketed. . . . When organized crime syndicates based in Mexico became deeply involved in the meth trade, they purchased chemicals, then produced and aggressively trafficked meth along the Southwest Border and California. Meth is now common in Florida, Georgia, Iowa, and Missouri, and is traveling [sic] eastward.”⁶

The testimony delivered to Congress by the DEA in 1996 reveals several important facts about the diffusion of methamphetamine. First, it points out that methamphetamine is being manufactured in secret labs in the United States at an increasing frequency. Second, despite this upsurge in domestic manufacturing, most of the methamphetamine now being sold in the U.S. is being imported from Mexico. Third, an important change in methamphetamine distribution has occurred as criminal organizations from Mexico have stepped up activity to meet the new demand for methamphetamine in the United States. Two reasons which may account for the recent increase in demand for methamphetamine over more established products like powder cocaine are the relatively lower price of methamphetamine⁷ and its longer-lasting effects.⁸

Other government agencies have also documented the changing nature of methamphetamine trafficking and abuse. The Community Epidemiology Working Group has reported that,

“Mexico is reportedly a major source of methamphetamine for many CEWG areas, sometimes almost exclusively, sometimes in addition to local production. In some cases Mexican methamphetamine is shipped with other drugs. In Miami, methamphetamine shipments from Mexican traffickers often include cocaine HCl and heroin as well. Similar shipments are reported in Hawaii, as Mexican nationals initially involved in the heroin trade have diversified their product line to include methamphetamine, amphetamine, and cocaine. . . . In Hawaii, California-based Mexican sources use the state’s cultural diversity to facilitate smuggling and distribution to and within the islands . . .”⁹

⁶Statement by Harold Wankel, Chief of Operations, Drug Enforcement Administration, before the House Judiciary Subcommittee on Crime regarding *The Comprehensive Methamphetamine Control Act of 1996*, H.R. 3852 on September 5, 1996. Congressional Testimony is available via the DEA website: <http://www.usdoj.gov/dea/pubs/cngrtest/c960905.html>.

⁷*Id.*

⁸*Supra* note 1.

⁹NIDA, *Assessing Drug Abuse Within and Across Communities: Community Epidemiology Surveillance Networks on Drug Abuse*, NIH Pub. No. 98-3614, 73 (April 1998).

Further evidence of the increased use of methamphetamine is found in the Treatment Episode Data Set (TEDS) collected annually by the Office of Applied Studies at SAMHSA.¹⁰ In a January 1998 report, SAMHSA notes that there were 14,400 admissions for methamphetamine treatment in 1992, 20,512 admissions in 1993, 32,917 admissions in 1994, 47,410 admissions in 1995, and 42,330 admissions in 1996.¹¹

Finally, NIDA's Monitoring the Future Survey, which tracks trends in drug use among 8th, 10th, and 12th graders, shows an increase in stimulant use among students in all three grades between 1991 and 1997.¹² These diverse indicators provide substantial evidence of the changing pattern and prevalence of methamphetamine use and trafficking.

USSC Tracks the Increase and Spread of Methamphetamine

The United States Sentencing Commission's (USSC) research mandate includes monitoring trends in sentencing and reporting the findings.¹³ In fulfillment of these duties, the Commission receives, for each offender sentenced in federal court for a felony or Class A misdemeanor, various documents including Pre-Sentence Reports, Judgement of Conviction Orders, Statements of Reasons, Plea Agreements, and Indictments. Commission staff then extract demographic, sentencing, and guideline application information on these cases. Each case consists of a single sentencing event for a single offender. In light of the information on the increasing prevalence and shifting trafficking patterns of methamphetamine, the Commission examined its dataset to determine the extent to which trends in the characteristics of federal methamphetamine offenders correspond to trends reported by federal health care and law enforcement agencies¹⁴

¹⁰*Id.* at 18.

¹¹Treatment Episode Data Set (TEDS), "Table 2.3, Number and Percent Distribution of Admissions by Primary Substance of Abuse: TEDS 1992-1996," in *National Admissions to Substance Abuse Treatment Services, The Treatment Episode Data Set (TEDS) 1992-1996*. Available on the website: [HTTP://www.samhsa.gov/oas/teds/Teds96.htm/intro.htm](http://www.samhsa.gov/oas/teds/Teds96.htm/intro.htm).

¹²NIDA NOTES, NIH, Infofax, "High School and Youth Trends," Institute for Social Research, University of Michigan, *Monitoring the Future* (1997). NIDA website: [HTTP://165.112.78.61/Infofax/HSYouthrends.html](http://165.112.78.61/Infofax/HSYouthrends.html).

¹³See 28 U.S.C. § 995 (Powers of the Commission).

¹⁴A very high proportion of cases brought to federal court result in convictions. Given this relationship between cases brought and convictions resulting in a sentencing event, it is plausible to assume that the USSC's annual dataset may serve as a proxy for tracking federal law enforcement activities (and priorities). However, federal law enforcement accounts for a small percentage of the total national law enforcement effort. The combination of limited resources and jurisdictional constraints generally makes it difficult to identify emerging crime trends from federal law enforcement data sources alone. This application of the data may be further constrained by the time lag between law enforcement intervention and a sentencing event. In asking the question regarding the utility of using Commission data to identify and understand an emerging criminal trend as it diffuses across the country, it was anticipated that the dataset would provide, at best, limited utility. However, as will be seen, the Commission's

The number of methamphetamine drug-trafficking cases received by the Commission from fiscal year 1992 through fiscal year 1998 has increased steadily from 630 cases in 1992 to 2,234 cases in 1998, an increase of 250 percent over the past seven years (see Table 1 in Appendix).¹⁵ The Commission also records information on offender race and ethnicity. During this period, the percent of white offenders convicted of trafficking methamphetamine has decreased from 85.7 percent to 58.9 percent, while the proportion of offenders of Hispanic origin has increased from 11.3 percent to 33.0 percent. However, law enforcement intelligence and the epidemiologic work group data attributed much of the increased availability of methamphetamine specifically to Mexican trafficking groups. Is the Commission data consistent with this information?

According to Commission data, during the seven year period under study, the number of offenders of Hispanic origin has increased substantially, regardless of citizenship status. However, the number of methamphetamine cases involving Hispanic non-citizens is more than twice the number involving Hispanic citizens (526 non-citizens compared to 204 citizens). According to court records, Mexican nationals account for 88.5 percent of all non-citizen Hispanic methamphetamine offenders. Excluding Ice offenses, which are more prevalent among Asian populations, Mexican nationals account for 93.0 percent of non-citizen methamphetamine traffickers.

Thus, Commission data in fact do follow the trends reported by other federal agencies regarding increasing availability of the drug and its new source of supply. A final question remains as to the ability of the Commission data to track the geographic diffusion of the drug across the United States. Using information on the judicial district in which the offender was tried, it is possible to determine the presence and prevalence of methamphetamine trafficking cases in each state as well as the characteristics of the offenders.

Again, Commission data appear consistent with the information provided by other sources. Figure 1 indicates that in 1992 Mexican nationals were convicted of federal methamphetamine trafficking offenses in only three states. By 1998 federal convictions of Mexican nationals had occurred in 30

dataset does track closely with other indicators of the changing pattern of methamphetamine trafficking. This rapid response of federal law enforcement to focus resources on methamphetamine trafficking may be indicative of the perceived severity of the offense.

¹⁵For comparison purposes, guideline cases overall have increased 32.7 percent (from 38,258 to 50,754) during the period from 1992 through 1998. During this time, drug trafficking offenses increased 25.4 percent (from 15,643 to 19,615). The drug type with the next greatest percentage increase after methamphetamine is crack cocaine. The number of crack offenders increased 136 percent during this period from 2,071 cases in 1991 to 4,891 by 1998.

states. Figure 2 presents trend data for treatment admissions, emergency room visits, and Commission sentencing data.¹⁶ All three demonstrate the increasing prevalence of methamphetamine activity.¹⁷

II. Statutory and Guideline Amendment History

The purpose of this section is to briefly summarize the recent history (1986 forward) of changes in statutory law and the sentencing guidelines that have affected sentencing policy for methamphetamine trafficking offenses. That history consists, in brief, of four major amendments to the relevant statutory law and seven amendments to the applicable sentencing guidelines, three of which responded directly to the statutory changes. No guideline amendments have yet been promulgated in response to the most recent (1998) statutory change. As this staff report is being prepared, Congress is moving to consider still another major piece of legislation that, if enacted, would substantially impact sentencing policy for methamphetamine offenses. These several statutory and guideline changes in sentencing law will be discussed chronologically below.

1986 Anti-Drug Abuse Act, Initial Sentencing Guidelines. The first Commissioners derived the initial drug trafficking sentencing guidelines (§2D1.1 “Substantive trafficking offenses” and §2D1.4 “Attempts, Conspiracies”) largely from the mandatory minimum quantity thresholds established in the Anti-Drug Abuse Act of 1986.¹⁸ That Act, however, did not provide any mandatory minimums for methamphetamine trafficking offenses. Consequently, the initial sentencing guidelines did not list methamphetamine in the “Drug Quantity Table” in §2D1.1. Rather, under the initial guidelines that took effect on November 1, 1987, methamphetamine was treated under the drug guideline application note that set forth “Drug Equivalency Tables.” In these tables, methamphetamine was listed as a Schedule II stimulant, consistent with its designation under 21 U.S.C. § 812(c). Based largely on information provided by the Drug Enforcement Administration, the initial guidelines assigned to methamphetamine an equivalency equal to twice that of cocaine and .4 that of heroin (*i.e.*, 1 gram of methamphetamine = 2 grams of cocaine = .4 gram of heroin = 400 grams of marihuana).

1988 Anti-Drug Abuse Act, 1989 Sentencing Guidelines. In the Anti-Drug Abuse Act of 1988, Congress expanded on the policies enunciated through the 1986 Act by, among other things,

¹⁶Note Commission data multiplied by 10 to facilitate comparison.

¹⁷Unlike the USSC data, which indicate consistent year-to-year increases in the number of cases, both DAWN and TEDS show a decline in activity in 1996 followed by an increase in 1997. The DAWN data again show a decrease in 1998. The 1998 data for the TEDS dataset is not yet available.

¹⁸The basic guideline scheme involved setting two “cornerstone” offense levels, 26 and 32, corresponding to the minimum drug quantities triggering the five- and ten-year mandatory minimums, respectively, for each controlled substance for which Congress prescribed mandatory minimums. Using these two cornerstones and the drug quantities equivalent to them, the other offense levels and associated quantity ranges were then derived through processes of proportionate interpolation and extrapolation. For a fuller explanation, *see infra* p. 12.

establishing mandatory minimums for methamphetamine trafficking offenses. In so doing, Congress chose to follow the precedent used for PCP—and only PCP—under the 1986 Act and set alternative mandatory minimums for the quantity of pure controlled substance and for the quantity of a mixture containing the controlled substance. Under the 1988 law, the quantities of methamphetamine and methamphetamine mixture triggering the five- and ten-year mandatory minimums, respectively, were prescribed as follows:

5-Year Minimum: 10 grams methamphetamine or 100 grams methamphetamine mixture
10-Year Minimum: 100 grams methamphetamine or 1 kilogram¹⁹ methamphetamine mixture

Thus, as these numbers indicate, the 1988 Act employed two different, 10-to-1 quantity ratios in setting the mandatory minimum penalties for methamphetamine trafficking offenses. First, the quantity of substance triggering the ten-year minimum was ten times the quantity triggering the five-year minimum. This decision followed the ratio used for all other controlled substances for which mandatory minimums were prescribed in either the 1986 Act or the 1988 Act. Secondly, the weight quantity of methamphetamine mixture triggering each mandatory minimum was set at ten times the quantity of the pure controlled substance triggering that same statutory minimum penalty. The effect of this 10-to-1 mixture/pure substance ratio is that, under a literal application of the alternative penalty thresholds, the weight of the pure substance will control the statutory penalty whenever the purity of a methamphetamine mixture exceeds ten percent.

The Commission responded to the 1988 Act's prescription of mandatory minimums for methamphetamine offenses by incorporating these statutory penalties into the drug trafficking guideline.²⁰ In taking this action, the Commission followed the approach set forth in the original guidelines for the other principal controlled substances for which mandatory minimums had been prescribed by Congress. Under this proportional approach, offense level 26 corresponded to the minimum quantities triggering the five-year mandatory minimum: 10 grams of methamphetamine or 100 grams of methamphetamine mixture; and level 32 corresponded to the minimum quantities triggering the ten-year minimum: 100 grams of methamphetamine or 1 kilogram of methamphetamine mixture. Necessarily, the Drug Equivalency Tables also were amended to reflect the quantity ratios among different controlled substances set by Congress for the mandatory minimums. This new, statutorily-based equivalency was as follows: 1 gram of methamphetamine = 5 grams of cocaine = 1 gram of heroin = 1 kilogram of marihuana (in comparison to the previous equivalency of 1 gram methamphetamine = 2 grams cocaine = .4 gram heroin = 400 grams marihuana).] In effect, Congress's mandatory minimum designations in the 1988 Act translated into guideline changes that ascribed to methamphetamine a potency approximately 2.5 times that of the former law.

¹⁹The 1988 Act actually mistakenly set the ten-year minimum quantity of mixture at 100 grams. This error was corrected in 1990.

²⁰See *Guidelines Manual*, App. C, Amend. 125 (1998).

1990 Crime Control Act, 1991 Sentencing Guidelines. In the 1990 Crime Control Act, Congress focused on a particular form of methamphetamine, popularly known as “Ice,” that had appeared primarily on the West Coast. This type of methamphetamine typically was of very high purity (over 80 percent pure) and, insofar as its physical appearance, was crystalline in structure. Congress was motivated by the fear that this highly pure, more addictive, and more dangerous form of methamphetamine would quickly spread to other communities across the Nation.

In framing a legislative response, the House Crime Subcommittee and its Chair, Representative William J. Hughes (D-NJ), sought a method of achieving heightened penalties for Ice trafficking offenses that would be consistent with the guidelines and that would not involve a new mandatory minimum. With these objectives in mind, Congress enacted an instruction to the Commission contained within Section 2701 of the 1990 Crime Control Act. This instruction mandated that the Commission amend the guidelines “for offenses involving smokable crystal methamphetamine . . . so that convictions for [such offenses] will be assigned an offense level . . . two levels above that . . . [for] other forms of methamphetamine.”²¹

The Commission, however, found it problematic to implement this seemingly straightforward directive in a manner consistent with the guidelines’ structure. Simply assigning offense levels for Ice that were consistently two levels greater than for comparable quantities of methamphetamine mixture would punish (in some cases) defendants who possessed an insignificant amount of their total methamphetamine supply in the form of Ice more severely than if they had trafficked a comparable quantity of pure methamphetamine. Moreover, for defendants who trafficked in multiple drugs, including multiple forms of methamphetamine, the Drug Equivalency Tables would no longer provide a consistently practicable and proportional means of computing an overall offense level.²² Consequently, the Commission reasoned that it could best achieve the enhanced punishment purpose of the instruction in a manner consistent with the guidelines’ structure by treating Ice, a form of methamphetamine that typically was 80 to 90 percent pure, as if it were 100 percent pure methamphetamine. This approach, implemented through a 1991 amendment,²³ also achieved the result of treating most Ice methamphetamine offenses two or more offense levels more severely than

²¹Pub. L. No. 101-647, § 2701, 104 Stat. 4912 (1990).

²²These anomalies result from the fact that additional drug quantities translate into increased offense levels in a “stair-step,” rather than a smooth continuum fashion. To illustrate, suppose a defendant is being sentenced for selling 10 grams of actual methamphetamine. That weight would translate to an offense level of 26. In comparison, suppose that same defendant sold 11 grams of actual methamphetamine, 1 gram of which was in the form of Ice. A literal application of the 1990 Crime Control Act directive would call for increasing that defendant’s offense level to at least level 28, whereas if all 11 grams had been pure methamphetamine (but none in the form of Ice), the offense level would remain at level 26 (increasing to level 28 only when 40 or more grams of actual methamphetamine were involved).

²³See USSG, Append. C, Amend. 370 (1991).

offenses involving a comparable quantity of methamphetamine mixture and ultimately proved acceptable to Congress, which took no action to modify or reject it.

Miscellaneous guideline amendments. In 1991 the Commission made two other, non-substantive changes in the drug trafficking guideline that affected guideline application for methamphetamine offenses. First, the Commission dropped the designation of “pure methamphetamine” (and “pure PCP”), substituted the term “Methamphetamine (actual),” and illustrated the meaning of the new term.²⁴ This change was an attempt to assist guideline users in better understanding that methamphetamine need not exist in its pure form in order for the alternative penalty provisions for the actual controlled substance itself to be used.

Second, the Commission amended the Drug Equivalency Tables to express the equivalencies for all controlled substances, including methamphetamine, in terms of weights of marihuana.²⁵ This amendment was designed to simplify guideline calculations when multiple drugs were involved in the offense. Thus, under the amended Equivalency Tables, 1 gram of methamphetamine (mixture) was equated to 1 kilogram of marihuana, and 1 gram of methamphetamine (actual) or Ice was equated to 10 kilograms of marihuana.

In 1995 the Commission responded to a litigation problem involving determination of appropriate guideline penalties for different isomers of methamphetamine. From their inception, the guidelines had prescribed lower penalties for the “l-meth” isomer²⁶ because that form of the drug was reported by DEA to be less potent and dangerous. Noticing the substantial penalty differential between the “l-meth” isomer and the more common and dangerous “d-meth” isomer,²⁷ defendants began asserting that the government must specifically prove that their offense involved “d-meth” in order for the more severe penalties to apply. In response to this litigation, the Commission amended the Drug Equivalency Tables to delete the equivalency for “l-meth,” thereby treating all isomers of methamphetamine alike and punishing them equivalently to “d-meth.” In explaining the rationale for this change, the Commission noted that, in reality, l-meth was produced only in a botched effort to manufacture the more potent “d-meth” isomer.²⁸

1996 Comprehensive Methamphetamine Control Act, 1997 Guidelines. In 1996, Congress considered legislation to toughen the mandatory minimums for methamphetamine offenses by cutting in

²⁴*Id.*, Amend. 395.

²⁵*Id.*, Amend. 396.

²⁶Levo-methamphetamine/L-Desoxyaphedrine.

²⁷Another isomer, dl-methamphetamine, also can exist.

²⁸*Supra* note 20, Amend. 518.

half the quantities of the pure controlled substance and mixture that would trigger the respective five- and ten-year minimums. That legislation ultimately was not enacted in that form. Rather, Congress opted for detailed instructions to the Commission requiring the agency to review and amend the sentencing guidelines for methamphetamine trafficking offenses in order to increase punishment for those offenses.²⁹ A separate directive required the Commission to focus specifically on environmental hazards posed by methamphetamine manufacturing laboratories and to enhance the penalties for environmental offenses associated with methamphetamine manufacture and trafficking.³⁰

The Commission responded with a three-prong amendment.³¹ First, it added to the drug trafficking guideline a two-level enhancement that applies if the offense involved the importation of methamphetamine or its manufacture from chemicals the defendant knew were imported unlawfully.³² Second, it added a two-level enhancement applicable if the offense involved an environmental offense.

It has recently come to the attention of staff that this environmental enhancement inadvertently was not added to guideline 2D1.11 (pertaining to Listed Chemicals) and guideline 2D1.12 (pertaining to Manufacturing Equipment), as had been proposed by the Commission in amendments published for comment and as probably was intended. This oversight should be addressed and appropriately corrected.

Third, it cut in half the quantities of methamphetamine mixture that correspond to each offense level listed for methamphetamine in the Drug Quantity Table, while leaving unchanged the quantities of methamphetamine (actual) and Ice corresponding to the various offense levels. This prong of the amendment was designed to punish more severely those methamphetamine trafficking offenses in which the weight of the mixture was used to determine the offense level—an approach that the Commission’s data indicated was used for the majority of cases.³³ This part of the amendment thus

²⁹Comprehensive Methamphetamine Control Act of 1996, § 301, Pub. L. No. 104-237, 110 Stat. 3099, 3105.

³⁰*Id.* § 303, 110 Stat. 3106.

³¹*Supra* note 20, Amend. 555.

³²The enhancement would not apply, however, if the defendant received a mitigating role adjustment.

³³In this regard, the actual practice seemed to differ from the approach that purity data suggest should be used. DEA information indicates that purity of trafficked methamphetamine has exceeded 50 percent in recent years, which in turn would suggest that the weight of the actual methamphetamine in the mixture should be used to determine offense levels in nearly all cases. In reality, however, the weight of the pure substance appears to have been used in less than 40 percent of the cases. The DEA has reported that most recently the purity of

changed the guideline quantity ratio between methamphetamine mixtures and actual methamphetamine from 10-to-1 to 5-to-1, which effectively means that the weight of the actual methamphetamine in a mixture now will yield a higher penalty than the weight of the mixture whenever the mixture's purity exceeds 20 percent (instead of 10 percent under the former guideline standard).

1998 Methamphetamine Trafficking Penalty Enhancement Act. The most recently enacted expression of congressional sentencing policy for methamphetamine offenses is contained in the Methamphetamine Trafficking Penalty Enhancement Act of 1998.³⁴ This substantive provision of the FY 1999 Omnibus Appropriations Act accomplished what Congress had started to do two years earlier. It effectively stiffened the mandatory minimums for methamphetamine trafficking offenses by cutting in half the quantities of methamphetamine mixture and methamphetamine substance necessary to trigger the five- and ten-year mandatory minimums. Under the amended law, applicable to offenses occurring on or after October 21, 1998, the mandatory minimum quantities are as follows:

5-year minimum: 5 grams of methamphetamine or 50 grams of methamphetamine mixture
10-year minimum: 50 grams of methamphetamine or 500 grams of methamphetamine mixture

The triggering quantities for the methamphetamine substance itself are now equal to those for crack cocaine, an overt objective noted and apparently sought by some sponsors of the legislation.

Enactment of this legislation now squarely presents to the Commission the issue of whether it will conform the quantities of methamphetamine (actual) and Ice in the Drug Quantity Table to the amended triggering quantities in the statute.³⁵

Methamphetamine Anti-Proliferation Act of 1999. On November 19, 1999, the Senate approved an amended version of S.486, Methamphetamine Anti-Proliferation Act of 1999. This legislation is aimed principally at the problems associated with domestic methamphetamine production, popularly known as "meth labs," including the environmental and safety concerns associated with these illegal enterprises. Among other things, this bill would: (1) direct the Sentencing Commission to essentially equalize guideline penalties for amphetamine and methamphetamine offenses, (2) require mandatory restitution to state, local, and federal governments for environmental cleanup of clandestine amphetamine and methamphetamine manufacturing sites, (3) create a new offense punishable by up to ten years' imprisonment for teaching or demonstrating the manufacture of a controlled substance, (4) create a new offense punishable by up to three years' imprisonment for the stealing or interstate transportation of anhydrous ammonia, (5) direct the Commission to review and amend penalties for

methamphetamine has declined below 30 percent.

³⁴Pub. L. No. 105-277, Division E, 112 Stat. 2681 (1998).

³⁵Commission action in response to the 1996 legislation has the effect of conforming the guidelines for meth-mix to the newly enacted Mandatory Minimum.

offenses involving ephedrine, pseudoephedrine, or phenylpropanolamine (including salts, optical isomers, and salts of optical isomers) so that such penalties correspond to penalties for the quantity of controlled substance that could reasonably be manufactured, (6) direct the Commission to review and amend penalties for offenses involving List I chemicals involved in the manufacture of amphetamine and methamphetamine, and (7) direct the Sentencing Commission to provide a guideline enhancement and minimum resulting offense level for offenses involving amphetamine or methamphetamine labs that create a substantial risk of harm to human life or the environment, with still greater enhancement and minimum resulting offense level for lab operations that create a substantial risk of harm to a minor or incompetent.

This legislation provides emergency amendment authority to promulgate these amendments as soon as practicable after the date of enactment of this Act.

The House Judiciary Committee has not acted on any similar legislation at this time.

III. Federal Drug Guidelines

The guidelines punishing drug offenders are located in Chapter 2, Part D “Offenses Involving Drugs” of the *Guidelines Manual*. The most frequently applied guideline is §2D1.1 “Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy.” The sentence derived from this guideline relies primarily upon the severity associated with the specific quantity of drug, as described in the Drug Quantity Table, involved in the offense of conviction and its relevant conduct. Of the eleven guidelines in Part D, seven reference the Drug Quantity Table (*see* Table 2 in Appendix). The Drug Quantity Table converts the amount of drug involved in the offense into a severity score ranging from level 6 to level 38.³⁶ Each drug has a simple mathematical relationship to each other drug in the table.³⁷ Each drug identified in the Drug Quantity Table establishes a penalty structure using the mandatory minimum sentences established by

³⁶Between 1989 and 1993 the Drug Quantity Table extended to base offense level 42.

³⁷That is to say, a ratio exists between any two types of drugs. The most often cited is the 100 to 1 ratio between powder cocaine and crack cocaine. The ratio, in this case, means that an identical severity level is achieved with 100 grams of powder cocaine or 1 gram of crack cocaine. Similarly, the ratio between crack cocaine and marihuana is 1 to 20,000; that is, one gram of crack cocaine is of identical severity to 20,000 grams of marihuana. Currently, the guideline ratio between crack cocaine and pure methamphetamine is 1 to 2. That is, one gram of crack cocaine results in an identical severity level as 2 grams of pure methamphetamine. The presence of a simple mathematical relationship across types of drugs facilitates calculation of sentences when multiple drugs are present in an offense.

Congress at five years and ten years as anchor points. The remainder of the offense levels within the table are extrapolated from these anchors.³⁸

Within the Drug Quantity Table, the application of the methamphetamine calculation differs slightly from the method used for most of the other drugs. The guidelines account and punish separately for three variations of this drug: 1) a mixture or substance containing methamphetamine (that is, the weight of impurities and cutting agents are included in the calculation of offense severity; this method is referred to as methamphetamine in the table and referred to as “meth-mix” hereafter); 2) “Ice” which is a crystalized form of the drug with very high purity (typically 80 to 90 percent); and 3) pure, undiluted methamphetamine (referred to in the table and hereafter as “meth-actual”). Identical quantities of methamphetamine-actual and Ice result in identical severity levels under the Drug Quantity Table.³⁹

Demographic and Sentencing Summaries

In the following sections, information on federal methamphetamine offenders and offenses will be briefly described. All information is derived from the fiscal year 1998 dataset collected by the Commission. Because of the small number of cases involving the Ice form of the drug, these cases have little impact on those analyses which combine all three forms of the drug.

The specific “form” of the drug on which sentencing determinations are based is associated with several offense and offender characteristics as described below.⁴⁰ As a crystalline form of

³⁸The Commission decided that the drug quantities established by Congress for five- and ten-year sentences should be available to offenders with minimal criminal history. Consequently, the five-year quantities have a base offense level of 26 and a corresponding sentencing range of 63 to 73 months at Criminal History Category I. The ten-year quantities have a base offense level of 32 and a sentencing range of 121 to 151 months at Criminal History Category I.

³⁹Ice represents a very small portion of federal methamphetamine cases. In 1998, of the 2,234 cases sentenced under §2D1.1 for methamphetamine trafficking, only 134 (6.0%) were for Ice offenses.

⁴⁰Methamphetamine exists in two identifiable forms: 1) as a powder, soluble in water or alcohol; and 2) in crystalline form. The latter, commonly referred to as Ice, is the variant used for smoking the substance. As a powder, the drug is injected, swallowed, or snorted. The Drug Quantity Table specifically references Ice and methamphetamine; distinguishing the latter for sentencing purposes between the pure drug (meth-actual) and a mixture of the drug with adulterants (meth-mix). Methamphetamine-actual and -mix are not different forms of the substance but rather are alternative methods of measuring the severity of the offense both under the mandatory minimum statutes and the guidelines. In a given methamphetamine case (other than Ice), the applicable penalty is the greater of that for the weight of the methamphetamine-mixture, or the amount of actual/pure methamphetamine contained in the mixture, as determined by expert laboratory analysis. However, to facilitate presentation of the findings from the analysis of the Commission datafile, the Team wishes to take literary license with the term “form.” For the remainder of this report, the term “form” will be used to indicate that a distinction is being made among the three categories of the drug as they are used for sentencing: Ice; methamphetamine-actual; and methamphetamine-mixture. For example, the “form” of the drug will be used as a basis for comparing offense, offender, and sentencing differences among this population of cases.

methamphetamine, Ice is a more readily identifiable and distinct form of the drug. Methamphetamine-mix and methamphetamine-actual are not readily distinguishable, requiring a laboratory analysis to determine the purity of the drug. Because of the high purity level of street-level methamphetamine⁴¹ and the higher penalties associated with meth-actual, nearly all cases in which an analysis of drug purity is conducted theoretically should be sentenced using the actual quantity of pure drug contained in the mixture of the substance. Typically in drug cases the quantity and purity of seized drugs are reported on DEA Form #7. A review of a small, representative sample of 155 methamphetamine cases indicated that, as anticipated, when a purity analysis is reported, the offender is sentenced under the more severe meth-actual guideline. When no purity analysis is reported in the presentence report, the meth-mix guideline is used at sentencing. It is notable, however, that only 36.8 percent of methamphetamine cases (excluding Ice) are sentenced under the meth-actual calculation. Given the higher penalty structure for meth-actual, however, the expectation is that a purity analysis would be used in the majority of cases. The finding that it is not done, or at least the weight of the meth-actual does not determine the sentence, is contrary to this expectation.

Demographic Summary

During fiscal year 1998, 2,234 cases were sentenced for methamphetamine offenses under guideline 2D1.1.⁴² Of these cases, 59.4 percent (n=1,327) were sentenced for methamphetamine-mix, 34.6 percent (n=773) for methamphetamine-actual, and the remaining 6.0 percent (n=134) for Ice. Table 1 presents information on the demographic characteristics of methamphetamine trafficking offenders by form of the drug. Overall, more than 80 percent of the offenders are male and nearly three-quarters are United States citizens. Among Hispanic offenders however, only 28.0 percent are citizens. The race/ethnicity of these offenders differs somewhat by the form of the drug used at sentencing. Generally, African Americans represent a very small proportion of these offenders, regardless of form, and the bulk of methamphetamine offenders are white or of Hispanic origin. If the form of the drug is Ice, Asians account for nearly two-thirds (62.7%) of these cases. However, Asians account for very few cases among the other forms of the drug. When the form of the drug is methamphetamine-mix, the majority of cases are white (69.2%) followed at some distance by Hispanics (27.4%). When the form is methamphetamine-actual the proportion of whites and Hispanics is equal (47.4% white; 47.2% Hispanic).

⁴¹The White House Office of National Drug Control Policy (ONDCP) currently describes the purity of street-level methamphetamine at approximately 50 percent or more. They note that this level of purity has been consistent over the past four years. ONDCP website: www.whitehousedrugpolicy.gov/policy/98ndcs/iic/html. More recent DEA information suggests that purity levels have recently dropped to nearer 30 percent.

⁴²A total of 2,292 cases were sentenced for methamphetamine offenses under any of the drug trafficking guidelines (excluding simple possession offenses). This analysis focuses on cases sentenced under §2D1.1, which account for 97.5 percent of methamphetamine cases, to facilitate comparison of sentencing applications and outcomes.

Sentencing Summary

Consistent with nearly all types of offenses, a high proportion of these offenders plead guilty (92.1% overall) with little distinction by form of the drug (Table 3). As might be expected by the small quantities necessary to trigger a mandatory minimum sentence, a high percentage of these offenders are subject to a minimum mandatory sentence (83.0% overall).⁴³ Form of the drug is associated with likelihood of exposure to a mandatory minimum sentence. The two forms requiring the smallest quantity of drugs have the greatest percentage of cases with an applicable drug mandatory (89.4% meth-actual and 90.3% Ice) while meth-mix offenders were eligible for a mandatory minimum sentence less often (78.6%).

Cases of methamphetamine-mix or -actual involved a weapon approximately 20 percent of the time (21.7% mix; 21.2% actual), which contrasts sharply from the subset of cases involving Ice.⁴⁴ In these latter cases, a weapon was involved in only 9.0 percent of the offenses.

A sentencing enhancement for performing an aggravating role in the offense was applied in 8.1 percent of the cases, with some variation by form of the drug used to determine the sentence (6.5% actual; 9.0% mix and 9.0% Ice). Reductions for a mitigating role in the offense occur at a higher rate, 16.3 percent, and are more similar across drug form (18.8% actual, 14.8% mix, 17.2% Ice). Approximately one quarter (26.6%) of the methamphetamine cases receive relief from mandatory minimum sentences under the safety valve.⁴⁵ Offenders sentenced for meth-mix or -actual receive this benefit at nearly the same rate (23.3% mix; 29.5% actual), but offenders sentenced for Ice receive it more frequently (42.5%).^{46 47}

⁴³A mandatory minimum sentence based on drug quantity was applicable in 63.7 percent of all drug trafficking cases. Exposure to a mandatory minimum sentence does not necessarily result in the offender receiving the mandatory minimum. The Court may sentence below the minimum for reasons of “Substantial Assistance to Authorities” (§5K1.1) or application of safety valve relief, “Limitation on Applicability of Statutory Minimum Sentence in Certain Cases” (§5C1.2).

⁴⁴Weapon involvement includes cases receiving an enhancement under §2D1.1 or conviction under 18 U.S.C. § 924(c).

⁴⁵USSG §5C1.2 provides relief from the minimum mandatory sentence in the presence of specific offense and offender characteristics.

⁴⁶This difference in rates of application may be due to the slightly higher plea rate (an inclusionary criterion) among Ice offenders as well as the substantially lower rate of weapon involvement (an exclusionary criterion).

⁴⁷Among all drug offenders sentenced during 1998, 7.3 percent received an enhancement for an aggravating role in the offense and 24.7 percent received a reduction for playing a mitigating role. Overall, 24.7 percent received relief from the mandatory minimum via application of the safety valve.

A bare majority of methamphetamine cases were sentenced within the prescribed guideline range (all cases = 54.6%, mix = 55.2%, actual = 56.2%, and Ice = 48.1%). Historically under the guidelines, methamphetamine offenders have experienced the highest rates of substantial assistance departures of any drug type, and 1998 was no exception. Nearly all of the cases *not* sentenced within the applicable guideline range received a departure for substantial assistance to authorities (37.7 percent of all methamphetamine cases; 83.0 percent of all methamphetamine departure cases). The highest rate of departure for substantial assistance was experienced by Ice offenders (48.1%), followed by methamphetamine-mix (39.1%) and methamphetamine-actual offenders (33.4%). Other downward departures were granted in 7.4 percent of the cases, with some variation by drug form (6.3% mix, 10.3% actual, 2.3% Ice). Upward departures for these cases, like nearly all guideline offenses, are rare.⁴⁸

After application of these guideline factors, the average prison sentence in 1998 for all methamphetamine offenders was just over eight years (97 months). Among drug trafficking offenses, these cases receive the second longest sentences of any drug type. The longest sentences are imposed on crack cocaine offenders (123 months). There is some variation in sentence length associated with the form of the methamphetamine. Meth-actual offenders receive the longest sentences (106 months) and Ice offenders the shortest (85 months).

IV. Issues for Commission Consideration - Should the Drug Quantity Table for Methamphetamine Be Made Consistent With the 1998 Statutory Amendment Affecting the Mandatory Minimum Sentences for These Offenses?

As noted *supra*, each drug in the Drug Quantity Table establishes a penalty structure using the mandatory minimum sentences at five years and ten years as anchor points. Prior to passage of the Methamphetamine Trafficking Enhancement Act of 1998, the guideline penalties for methamphetamine mixture stood as the one exception to this practice. As discussed in the legislative history *supra*, the Commission, in response to Congressional directives enacted in 1996, increased the sentences for meth-mix offenses. Before the Commission's action, the Drug Quantity Table reflected the statutory penalties of 100 grams of meth-mix for a five-year sentence and 1,000 grams for a ten-year sentence. The relationship with the current meth-actual anchor points (10 grams equals 5 years; 100 grams equals 10 years) resulted in a presumptive purity for meth-mix of 10 percent. In 1997, the Commission amended the Drug Quantity Table for meth-mix to establish lower quantity thresholds to invoke the five- and ten-year sentences. At that time, the Commission set the five-year quantity at 50 grams and the ten-year quantity at 500 grams. The result established a presumptive purity for meth-

⁴⁸For drug cases overall, 56.9 percent were sentenced within the guideline range. Downward departures were granted in 12.8 percent and upward departures in 0.2 percent of the cases. Substantial assistance departures were granted in 30.1 percent of the cases.

mix of 20 percent under the guidelines.⁴⁹ Coincidentally, as a result of this action, the Drug Quantity Table for meth-mix is already aligned to the new mandatory minimum thresholds.

The 1998 legislation set the quantities of drug necessary for the five- and ten- year mandatory minimum sentences at:

meth-actual	5 grams invokes a 5 year penalty 50 grams invokes a 10 year penalty;
meth-mix	50 grams invokes a 5 year penalty 500 grams invokes a 10 year penalty

The Commission is not required by the legislation to amend the guidelines. Should no action be taken, the mandatory minimums established by Congress will trump the guidelines at sentencing but the impact of the Congressional increase will not be felt throughout the remainder of the Drug Quantity Table. A sentencing “benefit” to an offender of a decision to make no change in the guidelines would occur but would be limited to meth-actual and Ice offenders who are not exposed to a mandatory minimum sentence or who have drug quantities sufficiently above the minimum thresholds that the sentence exceeds the revised statutory minimum. However, un-linking the Drug Quantity Table from the mandatory minimum quantities established by Congress in a manner that reduces sentences would vary from past practice of the Commission and may prove politically unwise.⁵⁰

In the event the Commission chooses to amend the Drug Quantity Table in response to the 1998 Penalty Enhancement Act, several options are possible:

Option 1 Change only the methamphetamine-actual and Ice calculations to conform to the 1998 statutory amendment (5 grams equals a 5 year penalty and 50 grams invokes a 10 year penalty).⁵¹

⁴⁹At the pre-1997 amendment levels, it required 10 times the amount of meth-mix to achieve a comparable sentence to meth-actual. Under this structure, it is assumed that meth-mix is one-tenth the purity of meth-actual. After the 1997 amendment, it required only five times the amount of meth-mix to achieve a sentence comparable to meth-actual. This translates to an assumption that meth-mix is now one-fifth the purity of meth-actual or, stated in another manner, 20 percent pure.

⁵⁰Congress took this current action on the heels of 1997 Commission amendments to the drug guidelines that, in turn, responded to congressional directives enacted the prior year. During consideration of the 1998 bill, there were statements by some of its proponents that the bill was necessary, in part, because the Commission’s response had been inadequate.

⁵¹Some technical and conforming changes are necessary as well.

Consequence of Action

- Commission action to conform would be consistent with the overall structure of the Drug Quantity Table and with past practice.
- Conforming is consistent with the apparent intent of Congress, inasmuch as some advocates of the legislation justified its adoption based in part on the Commission's failure in its 1997 amendments to directly enhance the penalties for methamphetamine-actual. (Although it did enhance penalties for meth-mix.)
- Conforming the Drug Quantity Table to the statutory mandatory minimums for methamphetamine-actual would remove structural cliffs between the guideline offense levels and the statutory penalties.
- This conforming change would then simplify the overall penalty structure. Unlinking the Drug Quantity Table from the mandatory minimum quantity thresholds may result in a more complicated sentencing calculation inasmuch as the mandatory minimum penalties would often trump the penalty derived solely from the table.
- The change has the effect of increasing sentences for some percentage of methamphetamine-actual offenders (*see* Table 4).⁵²
- Longer sentences would result in an increase to the prison population thus incurring additional costs to the Federal Bureau of Prisons (*see* Table 4).
- The new Congressionally established mandatory minimum quantities for all forms of methamphetamine maintain the presumptive 10 percent purity of meth-mix originally established in the 1988 legislation. Modifying only the methamphetamine-actual portion of the Drug Quantity Table has the effect of reversing the 1997 amendment by the Commission which raised the presumptive purity of methamphetamine-mixture.

Option 2 Modify the Drug Quantity Table for methamphetamine-actual to conform to the 1998 legislation, and increase the methamphetamine-mixture guidelines to reflect a presumptive purity greater than 10 percent.

Consequence of Action

⁵²Absent any action by the Commission, the new mandatory minimum thresholds established by Congress, in and of themselves, affect a limited percentage of methamphetamine-actual offenders. However, this number would be fewer than if the change is made as described in this option.

- For the meth-actual component, the same as described in option 1.
- Based on the relatively high purity of street-level methamphetamine (approximately 50 percent), as reported by the Drug Enforcement Administration, this action would reduce the sentencing disparity with meth-actual offenses and preserve the intent of the 1997 amendment.
- Increases sentences for some proportion of methamphetamine-mixture offenders.
- Increase the prison population thus incurring additional costs to the Federal Bureau of Prisons (*see* Table 4).
- Requires the Commission to establish a presumptive purity level for meth-mix offenses.

Option 3 Require that all methamphetamine sentences be based on the amount of pure (actual) methamphetamine contained in the methamphetamine mixture.

In light of the data indicating substantial, unexplained, and perhaps unwarranted disparity in the determination of methamphetamine sentences, the Commission may want to consider the policy option of requiring, for purposes of the guidelines, that all sentences be based on the weight of the pure drug with two exceptions. The first exception would continue the guideline presumption that “Ice” methamphetamine is 100 percent pure, even though in reality it is typically only 80-90 percent pure. Thus, if the offense involved Ice, the weight of the entire Ice mixture would be used. The second exception would address the practical reality that the purity of the methamphetamine mixture in a given case may not always be known or readily determinable, although typically that information is provided on DEA Form #7. To handle the contingency of unknown purity, the guidelines could establish a presumptive purity of, perhaps, 50 percent to be used only when purity is unknown or cannot be readily determined.

The Commission might well choose to combine this option with option 1, under which the Drug Quantity Table amounts of methamphetamine-actual are halved to correspond with the 1998 change in the statutory mandatory minimum amounts. If, however, the Commission elected to “unhinge” the guideline offense levels for methamphetamine from the statutory minimum anchor points, it could elect option 3 independently of the conforming change embodied in option 1.

Consequence of Action

- Reduces apparently unwarranted disparity in the decision of whether to use meth-mix or meth-actual to determine the guideline sentence for meth offenders.

- Simplifies guideline calculations by providing a single, uniform methodology for determining the quantity of methamphetamine for purposes of applying the Drug Quantity Table and determining the resulting offense level.
- Because, in reality, most methamphetamine sentences are determined based on the weight of the meth-mix (even though the reverse should be true), this option can be expected to increase average methamphetamine sentences, particularly if coupled with Option 1.
- Provides a different rule for determining guideline sentences for methamphetamine than for PCP, which traditionally has been treated the same as methamphetamine under the guidelines and the mandatory minimum statutes (insofar as basing the sentence, alternatively, on the weight of the mixture or the weight of the pure substance in the mixture, whichever achieves the greater sentence).
- Provides a different rule for guideline purposes than would apply under the mandatory minimum statutes (although in practice the guideline calculation would usually exceed the mandatory minimum).
- Overall, achieves greater sentence severity, particularly if coupled with Option 1, than minimally necessary to conform the Drug Quantity Table to the 1998 statutory minimums. (See Table 4 for prison impact estimates.)
- In theory, slightly lower sentences could result for offenders involved with methamphetamine mixtures less than 10 percent pure. (This is the category of defendants for which the weight of the mixture may yield the greater sentence. Thus, if only the weight of the meth-actual is considered, the governing quantity under the Drug Quantity Table, and the resulting offense level and guideline penalty range, could be less. Because, in practice, methamphetamine mixtures are typically at least 50 percent pure, this category of defendants and possible concern is minimal.)
- Requires the Commission to establish a presumptive purity level for meth-mix offenses.

Impact of Modifications to Drug Quantity Table

When amending the guidelines, the Commission is required to consider the estimated impact on the prison population and prison system. To meet this requirement, staff have developed a statistical procedure which permits hypothetical resentencing of cases under new guideline provisions. This procedure enables the Commission to prepare an estimate of the impact of an amendment to the

prison population.⁵³ Because specific amendment language is necessary for the resentencing calculations, this analysis often comes late in the review.

Assuming, however, that only a straightforward amendment to the Drug Quantity Table is involved, it is possible to provide impact estimates at this point. Table 4 reports on the prison impact of the three options offered above: Option 1 only modifies the Table for meth-actual calculations, resetting the Table to the 5 grams - 5 years, 50 grams - 10 years anchor points; Option 2 assumes a modification to the Table both to meth-actual (as described above) and to meth-mix in a manner which preserves the presumptive purity of the mixture at 20 percent (this resets the 5 year and 10 year anchor points to 25 grams and 250 grams, respectively); and Option 3 assumes the modification to the Table for meth-actual as described in Option 1, eliminates methamphetamine-mixture from the Drug Quantity Table, and provides for a presumptive purity of 50 percent for cases without an available expert purity analysis. This table also presents information on the proportion of cases affected by the assumed changes and the impact on prison beds at 5, 10, 20, and 30 years from the effective date.

It is important to note that enactment of any of the changes described above will not affect every methamphetamine case. This is an artifact of the structure of the Drug Quantity Table and the magnitude of the assumed changes. At each offense level of the Drug Quantity Table is a range of drug quantity applicable to that offense severity. Because the assumed change to the Table is relatively small, some overlap between current quantity ranges and new quantity ranges will occur. For example, an offender convicted under the current guidelines of trafficking 15 grams of meth-actual would receive an offense level of 26, which corresponds to a five-year sentence for persons with minimal criminal history. This is so because the quantity range associated with that offense severity is at least 10 grams but less than 40 grams of meth-actual. If the Table is amended to correspond to the new mandatory minimum, the quantity range at offense level 26 will shift to at least 5 grams but less than 20 grams. As can be seen, an offense currently involving 15 grams of meth-actual will not be affected by the amendment. This small overlap of quantity ranges between current and assumed levels runs throughout the Table. It is also applicable to Ice and meth-mix cases.⁵⁴

As shown in Table 4, 58.7 percent of cases are affected under Option 1, 66.8 percent⁵⁵ under

⁵³A more detailed description of the Commission's Prison Impact Model is contained in Appendix A.

⁵⁴An additional number of cases will not be affected because the quantities associated with them are at the maximum of the Drug Quantity Table (level 38). For example, offenders sentenced for an offense involving at least 3 kilograms of meth-actual, corresponding to current bottom of level 38 in the Drug Quantity Table would remain at level 38 under Option 1. This is so because the effect of the change is to shift the bottom for that level to 1.5 kilograms. Because this is the top of the Drug Quantity Table, there is no upper limit.

⁵⁵The data reported for both Options 2 and 3 include the affected meth-actual and Ice cases from Option 1 (57.2% of total) and add the affected meth-mix cases. The estimates for meth-mix cases analyzed in Options 2 and 3 are based on 490 cases sentenced during 1998 using the 1997 (or later) Guideline Manual and extrapolated upward to provide an estimate applicable to the 1,058 meth-mix cases available for this specific analysis. This procedure was

Option 2, and 77.9 percent under Option 3.⁵⁶ Under all options, sentences for the affected meth-actual and Ice offenders increase, on average, 28.9 percent (adding 26 months to the current average sentence of 90 months - resulting in a new average sentence of 116 months). Under Option 2, the combined sentencing impact to meth-actual and meth-mix offenders is an average increase in sentence of 29.9 percent (adding 26 months to the average sentence). The combined effect of Option 3 is to increase average sentences by 41.9 percent (adding 36 months to the average sentence).⁵⁷

Option 1 would require an estimated 220 prison beds five years after implementation and 998 prison beds 30 years after implementation. Option 2 would require 663 prison beds after five years and a total of 2,846 beds after 30 years. Finally, Option 3 would require an additional 1,034 prison beds after five years and 4,613 beds 30 years after implementation.

necessary because the impact is relative to the post 1997 Drug Quantity Table only. The lag between arrest and sentencing resulted in 568 meth-mix cases sentenced during 1998 who were not exposed to the increased sentences available after the 1997 Commission amendment. The prison impact model assumes no such lag and therefore may slightly overestimate the prison impact occurring in the first few years after implementation of the amendment.

⁵⁶To estimate the impact of Option 3 on meth-mix cases, it is assumed that all current meth-mix cases will continue to be without an expert purity analysis and thus be sentenced under the presumed purity of 50 percent. This assumption is the most straightforward to be made. Alternatively, a spectrum of assumptions on the prevalence of a range of purity levels could be made but each would be completely speculative and not necessarily produce aggregate results that differ substantially from those presented.

⁵⁷The impact of Options 2 and 3 to meth-mix cases can be isolated from the combined result presented in the table. Option 2 would affect 72.4 percent of meth-mix cases, increasing sentences, on average, by 30.2 percent (26 months). Option 3 would affect 90.6 percent of meth-mix cases and increase sentence by an average of 47.1 percent (40 months).

Addendum

Amphetamine

Introduction

Commission staff have followed trends in methamphetamine trafficking and sentencing activity since the 1996 legislation. During this analysis, changes in federal *amphetamine* offenses and their similarities to methamphetamine trends were noted. Passage of the Methamphetamine Trafficking Penalty Enhancement Act of 1998 and formation of this policy team provided an opportunity to bring to the Commission's attention the many similarities between these two stimulants and the different sentencing results obtained under the guidelines. Coincidentally, rising concern over amphetamine use, trafficking, and manufacturing came to the attention of Congress which has begun to address this issue within S. 486 (Methamphetamine Anti-Proliferation Act of 1999). In that legislation, passed by the Senate on November 19, 1999, the Commission is instructed to amend the guidelines to equalize penalties for amphetamine with those for methamphetamine. This legislation currently provides emergency authority to the Commission to act on this issue as well as several related issues.⁵⁸ The House has similar

⁵⁸On November 19, 1999 the Senate passed a substitute version of the Methamphetamine Anti-Proliferation Act of 1999 (S.486), which contains directives to the Commission, as well as mandatory restitution for amphetamine and methamphetamine violations. This legislation is aimed principally at the problems associated with domestic methamphetamine production, popularly known as "meth labs," including the environmental and safety concerns associated with these illegal enterprises. At this time, the Commission is not required to act on this legislation.

Among other things, this bill would: (1) direct the Sentencing Commission to make comparable guideline penalties for amphetamine and methamphetamine offenses, (2) mandate restitution to state, local, and federal governments for environmental cleanup of clandestine amphetamine and methamphetamine manufacturing sites, (3) create a new offense punishable by up to ten years' imprisonment for teaching or demonstrating the manufacture of a controlled substance, (4) create a new offense punishable by up to three years' imprisonment for the stealing or interstate transportation of anhydrous ammonia, (5) direct the Commission to review and amend penalties for offenses involving ephedrine, pseudoephedrine, or phenylpropanolamine (including salts, optical isomers, and salts of optical isomers) so that such penalties correspond to penalties for the quantity of controlled substance that could reasonably be manufactured, (6) direct the Commission to review and amend penalties for offenses involving List I chemicals (other than ephedrine, pseudoephedrine, or phenylpropanolamine) involved in the manufacture of amphetamine and methamphetamine, and (7) direct the Sentencing Commission to provide a guideline enhancement and minimum resulting offense level for offenses involving amphetamine or methamphetamine labs that create a substantial risk of harm to human life or the environment, with still greater enhancement and minimum resulting offense level for lab operations that create a substantial risk of harm to a minor or incompetent. This legislation provides emergency amendment authority to promulgate amendments for Parts (1),(5), (6), and (7) as soon as practicable after the date of enactment of this Act.

In addition to criminal penalties, the legislation would authorize \$30 million for the Drug Enforcement Administration per year through 2004 to train, assist, and deploy agents, \$25 million per year for law enforcement to combat the drug's use and distribution in "high-intensity trafficking areas," and \$25 million per year for prevention, interdiction, and studies of the law's effectiveness.

legislation which has not been passed, though it had appeared to be on a fast track earlier in the year. No action is required by the Commission. The following analysis examines recent trends in federal amphetamine offenses, makes a comparison with methamphetamine, and describes the guideline sentencing differences.

What is Amphetamine?

Amphetamine, a Schedule II stimulant, is pharmacologically very similar to methamphetamine.⁵⁹ In fact, the definition of methamphetamine offered by the National Institute on Drug Abuse references the effects of that drug to amphetamine: “Methamphetamine’s chemical structure is similar to that of amphetamine, but it has more pronounced effects on the central nervous system. Like Amphetamine, it can cause increased activity, decreased appetite, and a general sense of well-being. . . . Methamphetamine is a Schedule II stimulant, which means it has a high potential for abuse and is available only through a prescription that cannot be refilled . . .”⁶⁰

The abuse and trafficking of amphetamine and methamphetamine is not often well distinguished in the literature. These terms and the street slang for these drugs are sometimes used interchangeably. The lack of distinction may result from their high degree of similarity. These drugs are similar in form, methods of use, sites of action in the brain, and intoxicative effects. Amphetamine is generally, though not always, described as less potent, although the precise magnitude of the difference is not clear. When Senator Hatch offered his substitute amendment making comparable sentences for amphetamine with those for methamphetamine, he stated that law enforcement officers believe they should be treated the same because amphetamine is manufactured, sold, and used in the same manner as methamphetamine, and amphetamine labs pose the same dangers as methamphetamine labs. Later, Senator Biden stated that amphetamine and methamphetamine differ by one chemical and are sold interchangeably on the streets and if “users can’t tell the difference between the two substances, there is no reason why the penalties should be different.”⁶¹

⁵⁹*Amphetamine: Drug Information Database, General Information on Amphetamine*, The Center for Substance Abuse’s (CESAR) METNET Drug Information Database, available at: <http://www.bsos.umd.edu/cesar/amphet.html>.

⁶⁰*Supra* note 1.

⁶¹*Id.* NIDA describes methamphetamine as having “. . . more pronounced effects on the central nervous system” than amphetamine. An expert Pharmacologist at the University of Maryland School of Pharmacology indicates that methamphetamine is five to six times more potent than amphetamine. He writes that “if the user properly adjusts the dose, an observer wouldn’t be able to distinguish between a 5 mg. methamphetamine dose and a 30 mg. amphetamine dose if both were taken by the same route.” Tony Tommasello, personal communication, 1998. As both drugs are legally available through prescription, a comparison was made in prescribed dosages using the Physician’s Desk Reference, a standard medical reference tool for establishing drug dosages. Each drug can be prescribed for children age six and above as treatment for Attention Deficit Disorder. A maximum therapeutic dose of 40 mgs. was reported for amphetamine (Dexedrin [Dextro Amphetamine Sulfate] by SmithKline Beecham Pharmaceuticals). The corresponding maximum dosage for methamphetamine is 20 to 25 mg. (Desoxyn

Federal Amphetamine Guidelines

There are no mandatory minimum sentences for amphetamine offenses. Under the current guidelines, amphetamine sentences are calculated using the weight of the drug and any adulterants included in the drug (*e.g.*, if the amphetamine is in pill form, the entire weight of the pill is included). Amphetamine is not specifically identified in the Drug Quantity Table. To determine an offense level, the quantity is converted to marijuana weight using the Drug Equivalency Tables found in §2D1.11. The penalties for Schedule II stimulants are found in the powder cocaine portion of the Table.

A quantity of amphetamine is sentenced at the same level as an equal quantity of powder cocaine. That is, with no or minimal criminal history, an offender convicted of trafficking 500 grams of amphetamine would receive a guideline range of 63 to 78 months, based solely on the weight of the drug. A weight of 5,000 grams (5 kilograms), and the lowest criminal history category, results in a sentencing range of 121 to 151 months. The mathematical relationships between the weight of amphetamine and the current five- and ten-year quantity thresholds for methamphetamine-mix and methamphetamine-actual are 10-to-1 and 50-to-1 respectively. The relationship between current amphetamine quantity/penalty levels and the new methamphetamine-actual mandatory minimum quantity threshold is 100-to-1 (see Table below).

Drug Type	Quantity for 5 year penalty	Quantity for 10 year penalty
Amphetamine	500 grams	5000 grams
Methamphetamine-Mixture	50 grams	500 grams
Methamphetamine-Actual Current	10 grams	100 grams
Methamphetamine-Actual New Mandatory Minimum	5 grams	50 grams

Recent Trends in Federal Amphetamine Offenses

[methamphetamine hydrochloride] by Abbott). The ratio of the two drug dosages is approximately two-to-one. (Physicians' Desk Reference, 52nd Edition, Medical Economics Company, Inc., Montvale, New Jersey, 1998). Gretchen Feussner of the Drug Enforcement Administration's Office of Diversion Control reported that the psychotropic effects of these drugs are equivalent at equal doses.

Federal amphetamine trafficking offenses, at this time, are very rare. Though the number of these cases is very small, the trends found in the Commission data track the trends in geographic diffusion and trafficker demographics observed in the methamphetamine data.

The number of amphetamine trafficking cases received by the Commission from fiscal year 1993 through fiscal year 1998 has generally increased. The cases initially decrease from 27 cases in 1993 to 22 cases in 1994 and to a low of only 9 cases in 1995. However, the number of cases increase in 1996 to 36 and then to 131 cases in 1997. In 1998, 82 cases involved amphetamine as the primary drug.

Similarities to methamphetamine trends include the changing race and ethnicity of these offenders and diffusion pattern across the United States. The percentage of white offenders trafficking amphetamine has decreased steadily from 100 percent of the cases in 1993 to less than half by 1998 (48.8 percent). There has been a corresponding increase in the percent of Hispanic offenders from zero percent in 1993 to 47.5 percent in 1998. Also, similar to recent trends in methamphetamine cases, the number of states in which an Hispanic offender was sentenced for the federal crime of amphetamine trafficking has been increasing (from 0 in 1992 to 21 in 1998).

Demographic and Sentencing Summary

Of the 82 amphetamine cases sentenced during 1998, offender and offense related information is available on 80 cases. Of these, approximately half are white (48.8%) and half of Hispanic origin (47.5%). Males account for 83.8 percent of these offenders and 67.1 percent are United States citizens.

Of these 80 offenders, 26 (32.5 %) received a departure for providing substantial assistance to authorities and an additional five cases (6.3%) received a downward departure for other reasons. None received an upward departure.

Seventy-three cases had information available on the quantity of amphetamine involved in the offense. Quantities ranged from 6.4 grams to 71,820 grams. Half of these cases involved quantities greater than 500 grams and, thus, were eligible for a five-year sentence based on drug quantity alone.

Of the 80 offenders described above, 78 received a sentence of imprisonment. The average sentence was 41 months.

Issue for Commission Consideration - Should penalties for amphetamine trafficking offenses be modified?

Amphetamine and methamphetamine are similar, although not identical, along a range of dimensions: chemically, by illicit production and trafficking methods, methods of use, sites of action in the brain, and intoxicative effects. As noted, *supra*, equal quantities of amphetamine and methamphetamine trigger dissimilar penalties.

Consequence of Action to Raise Penalties

- The action is consistent with the intent of the Senate as expressed in S. 486.
- This action would reduce the differences between amphetamine and methamphetamine penalties, thereby treating similar offenses similarly.
- The change has the effect of increasing sentences for amphetamine offenders. Average sentences (assuming the increase corresponds amphetamine penalties to the new methamphetamine-*mixture* mandatory minimums) increase 85.4 percent (35 months) from the current average of 41 months to a new average of 76 months.
- Longer sentences would result in an increase to the prison population thus incurring additional costs to the Federal Bureau of Prisons. The prison population is estimated to increase by 89 beds five years after implementation and 162 beds 30 years after implementation.⁶²

Consequence of No Action

- The intent of Congress on this issue may become more fully known as the legislative process continues.
- Amphetamine penalties remain lower than methamphetamine penalties.
- The Federal Bureau of Prisons does not require additional bed space because of longer sentences.

⁶²This is likely a very low estimate of the prison impact. If sentences are substantially increased, it is likely that prosecutors will bring more cases to federal court.

Appendix

Commission Prison Impact Model

The Commission prison impact model is a sophisticated computer algorithm which has been developed and refined over many year. This computer model resentsences a cohort of federal offenders to reflect modification to the sentencing guidelines. Change is measured in person-years of imprisonment. In general, person-years of imprisonment can be thought of as the long-term prison population.

The Commission prison impact model assumes a prison system in a “steady state” of bed utilization. The concept of a “steady-state” population envisions a prison system in homeostasis. In this system, the number of new, incoming inmates is equal to the number of outgoing (released) inmates and all beds are assumed to be occupied. This model assumes that all factors other than the proposed change in the specific sentencing policy under review (*e.g.*, arrest rates, charging practices, conviction rates, and other sentencing policies) remain constant over time. As a result, changes in the specific policy under review are isolated from other systemic change. Increases in the number of inmates results from an accumulation of inmates who, under the current guidelines, would have been released. Other assumptions incorporated into the prison impact model include: 1) defendants are resentedenced to a position in the estimated new guideline range that is equivalent to the position of the sentence in the original guideline range;⁶³ 2) defendants earn the maximum allowable good time (currently 54 days per year served for imposed sentences greater than one year and not life imprisonment); and 3) defendants serve the minimum of a) the sentence imposed less the maximum allowable good conduct time, or b) their estimated remaining life expectancy, based upon an actuary table incorporating current age, race, and sex.

The fiscal year 1998 monitoring data were used in the model.

⁶³Offenders receiving any type of departure are resentedenced to a position below (in downward departures and substantial assistance departures) or above (in the circumstance of upward departures) the estimated guideline range that is equivalent to their position relative to the original range.

Table 1

**DEMOGRAPHIC CHARACTERISTICS OF METHAMPHETAMINE OFFENDERS
(Fiscal Year 1998)**

	All Methamphetamine Cases		Methamphetamine Actual		Methamphetamine Mixture		ICE	
	number	percent	number	percent	number	percent	number	percent
Number of Cases	2,234	100.0	773	34.6	1,327	59.4	134	6.0
Male	1,884	84.3	665	86.0	1,109	83.6	110	82.1
Female	350	15.7	108	14.0	218	16.4	24	17.9
White	1,316	58.9	336	47.4	917	69.2	33	24.6
Black	36	1.6	12	1.6	20	1.5	4	3.0
Hispanic	738	33.0	365	47.2	363	27.4	10	7.5
Asian	123	5.5	24	3.1	15	1.1	84	62.7
All Other	20	0.9	6	0.8	11	0.8	3	2.2
U.S. Citizens	1,651	74.2	476	61.8	1,073	81.2	102	76.1
Non-U.S. Citizens	575	25.8	294	38.2	249	18.8	32	23.9
Non-citizens of Mexican Origin	509	88.5	279	94.9	226	90.8	4	12.5

Table 2

GUIDELINES IN CHAPTER 2, PART D OF THE FEDERAL SENTENCING MANUAL

§2D1.1	Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit these Offenses); Attempt or Conspiracy	Drug Quantity Table
§2D1.2	Drug Offenses Occurring Near Protected Locations or Involving Underage or Pregnant Individuals; Attempt or Conspiracy	Drug Quantity Table
§2D1.5	Continuing Criminal Enterprise	Drug Quantity Table
§2D1.6	Use of Communication Facility in Committing Drug Offenses; Attempt or Conspiracy	Drug Quantity Table
§2D1.7	Unlawful Sale or Transportation of Drug Paraphernalia	Drug Quantity Table
§2D1.8	Renting or Managing a Drug Establishment; Attempt or Conspiracy	Drug Quantity Table
§2D1.9	Placing or Maintaining Dangerous Devices on Federal Property to Protect the Unlawful Production of Controlled Substances; Attempt or Conspiracy	Base Offense Level 23
§2D1.10	Endangering Human Life While Illegally Manufacturing a Controlled Substance; Attempt or Conspiracy	Drug Quantity Table
§2D1.11	Unlawfully Distributing, Importing, Exporting or Possessing a Listed Chemical; Attempt or Conspiracy	Chemical Quantity Table
§2D1.12	Unlawful Possession, Manufacture, Distribution, or Importation of Prohibited Flask or Equipment; Attempt or Conspiracy	Base Offense Level 12 or 9
§2D1.13	Structuring a Chemical Transaction or Creating a Chemical Mixture to Evade Reporting or Recordkeeping Requirements; Presenting False or Fraudulent Identification to Obtain a Listed Chemical; Attempt or Conspiracy	Chemical Quantity Table

Table 3

**SENTENCING CHARACTERISTICS OF METHAMPHETAMINE OFFENDERS
(Fiscal Year 1998)**

	All Methamphetamine Cases		Methamphetamine Actual		Methamphetamine Mixture		ICE	
	number	percent	number	percent	number	percent	number	percent
Number of cases	2,234	-	773	-	1,327	-	134	-
Average Criminal History Category	2		2		2		2	
Guilty Plea	2,055	92.1	698	90.4	1,231	92.8	126	94.7
Drug Mandatory Minimum	1,855	83.0	691	89.4	1,043	78.6	121	90.3
Weapon Present	464	20.8	164	21.2	208	21.7	12	9.0
Aggravating Role Present	182	8.1	50	6.5	120	9.0	12	9.0
Mitigating Role Present	365	16.3	145	18.8	197	14.8	23	17.2
Safety Valve Applied	594	26.6	228	29.5	309	23.3	57	42.5
Within Guideline Range	1,190	54.6	420	56.2	707	55.2	63	48.1
Upward Departure	6	0.3	1	0.1	3	0.2	2	1.5
Downward Departure	162	7.4	77	10.3	82	6.3	3	2.3
Substantial Assistance	821	37.7	250	33.4	508	39.1	63	48.1
Average Prison Sentence (in months)	97		106		93		85	

Table 4
Estimated Sentencing and Prison Impact of Possible Amendments to Methamphetamine Sentences¹

Options	Guideline Change	Total Number of Cases	Percent of Cases Affected	Current Average Prison Sentence (In Months)	New Average Prison Sentence (In Months)	Prison Impact after 5 years ²	Prison Impact after 10 years	Prison Impact after 20 years	Prison Impact after 30 years
1	Meth-actual only 5g = 5 years	907	58.7	90	116	220 beds	658 beds	927 beds	998 beds
2	Meth-actual 5g = 5 years and Meth-mix 25g = 5 years	2,234	66.8	87	113	663 beds	1,853 beds	2,654 beds	2,846 beds
3	All based on the amount of pure (actual) meth ³	2,234	77.9	86	122	1,034 beds	2,836 beds	4,178 beds	4,613 beds

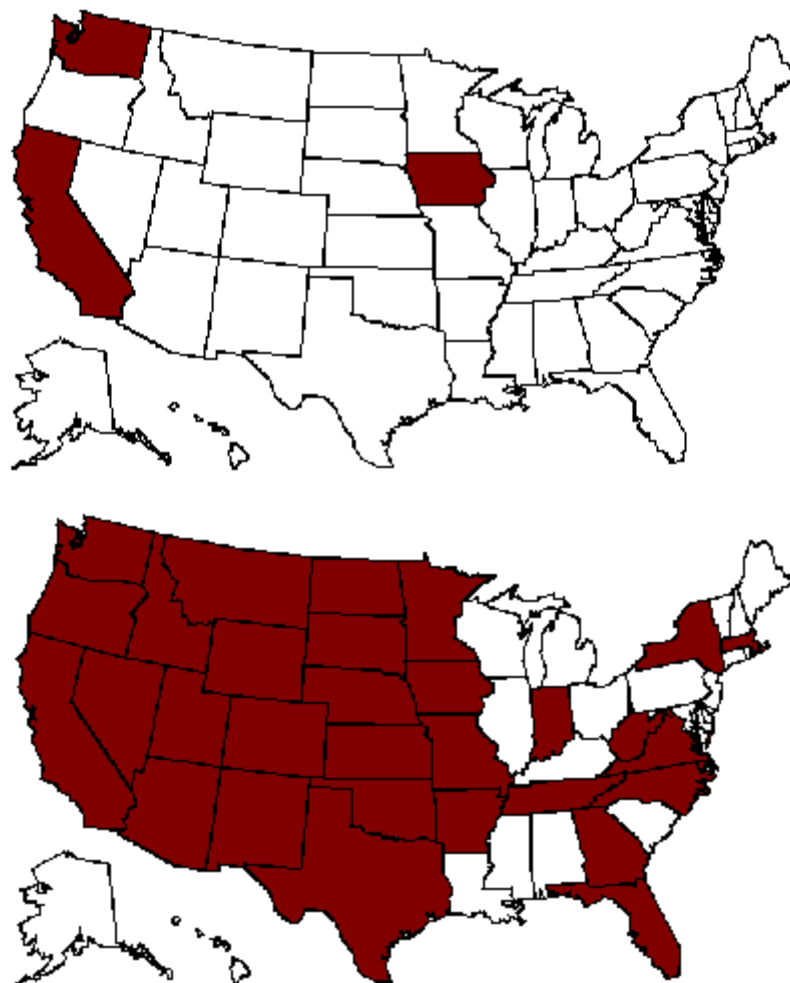
¹The impact to both the sentences and prison beds are estimated using the Commission's prison impact computer algorithm. For this analysis, only cases sentenced under §2D1.1 for the single drug type of methamphetamine (-mix, -actual, or ICE) are included. Also, the estimate for meth-mix is based on only those cases sentenced in 1998 using the *1998 Guidelines Manual*. The model estimates new sentences and prison impact using a subsample of the total cases (sentencing guideline §2D1.1 and involving only one type of drug). These results were extrapolated to the total population of §2D1.1 methamphetamine offenders in 1998.

²The cumulative increase in the prison population is based upon a calculation of person-years of imprisonment which is then compared to an hypothetical "steady-state" prison population. The concept of a "steady-state" population envisions a prison system in which the number of offenders admitted into the system is equal to the number of inmates discharged from the system. By focusing on the "steady-state" prison population, the impact of the policy change is isolated from other changes in the system which may impact the prison population.

³This option assumes that changes are made to the methamphetamine-actual calculation to correspond to the new mandatory minimum thresholds. As such, impacts described in Option 1 are incorporated into this analysis. In those cases in which the actual quantity is unknown, the purity of the methamphetamine-mixture was set at 50 percent.

SOURCE: United States Sentencing Commission, Prison Impact Model, 1998 Datafile, FY1998.

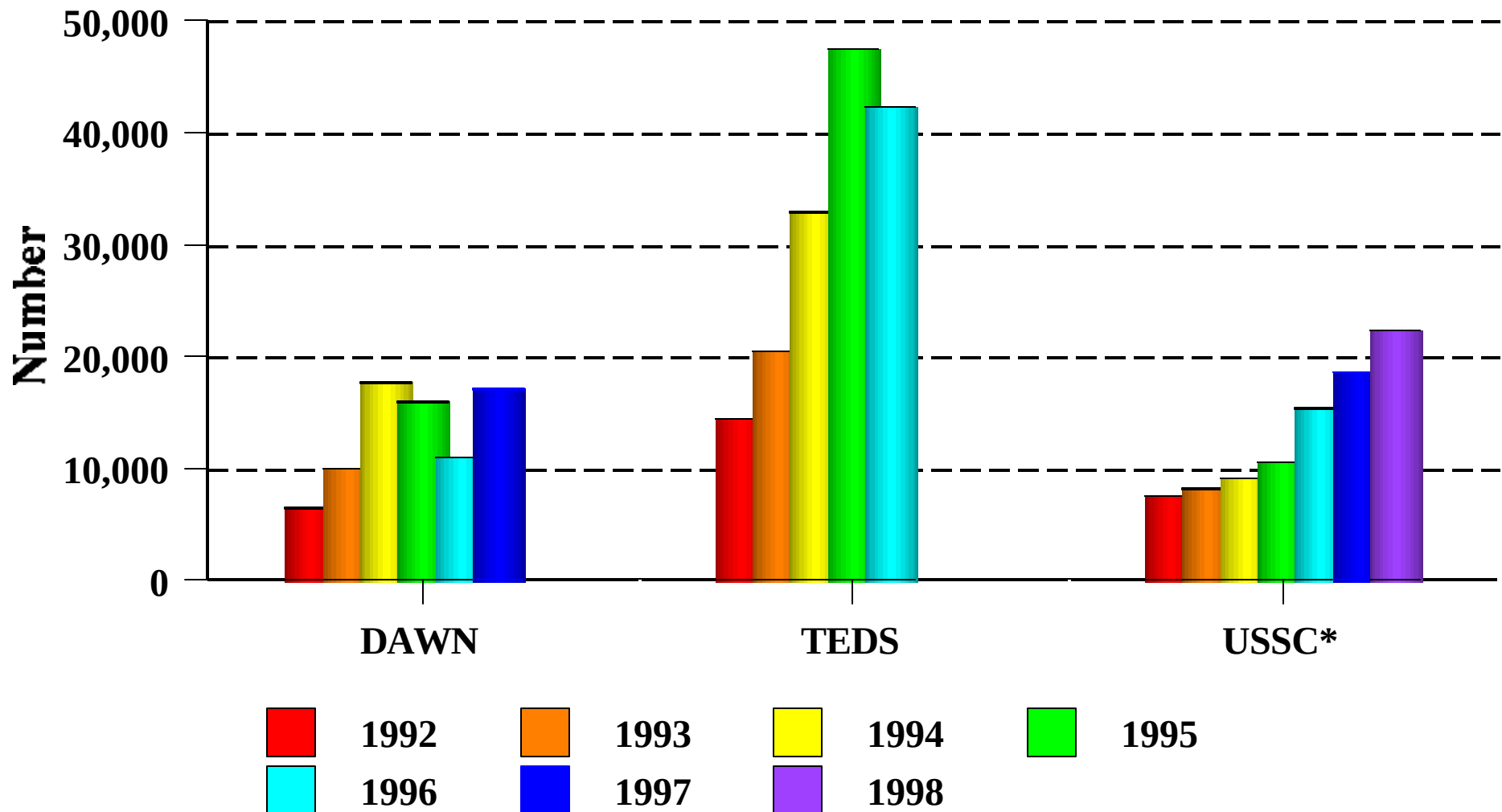
Figure 1: States with Mexican Nationals Sentenced for Methamphetamine: 1992 and 1998



SOURCE: U.S. Sentencing Commission, 1992 and 1998 Datafiles, USSCFY92 and USSCFY98.

Figure 2: Increase & Spread of Methamphetamine

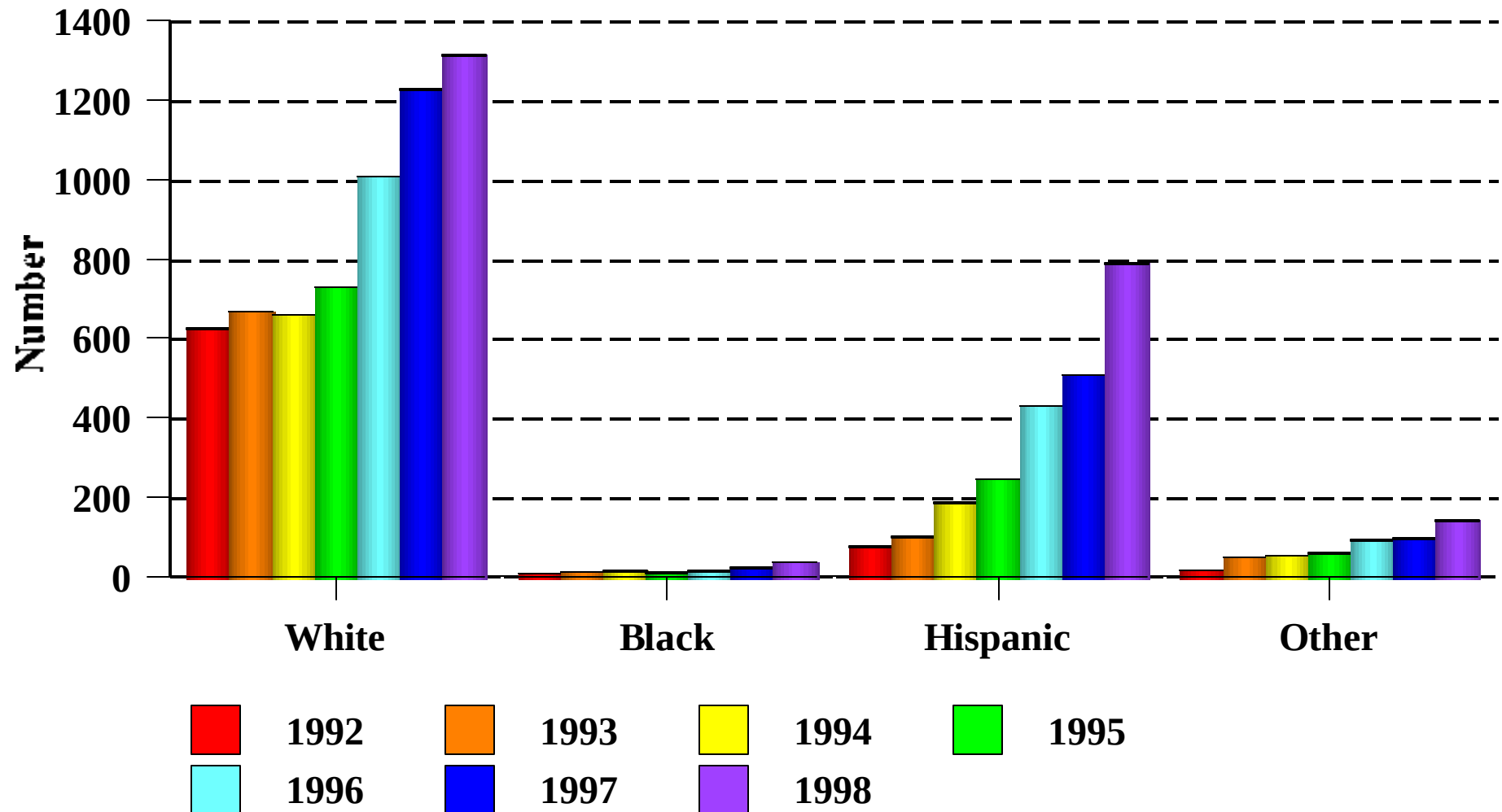
Comparing Data (1992-1998): DAWN, TEDS, USSC*



*Note: USSC data was multiplied tenfold for comparability of scaling with other data.

Figure 3: Methamphetamine Traffickers by Race

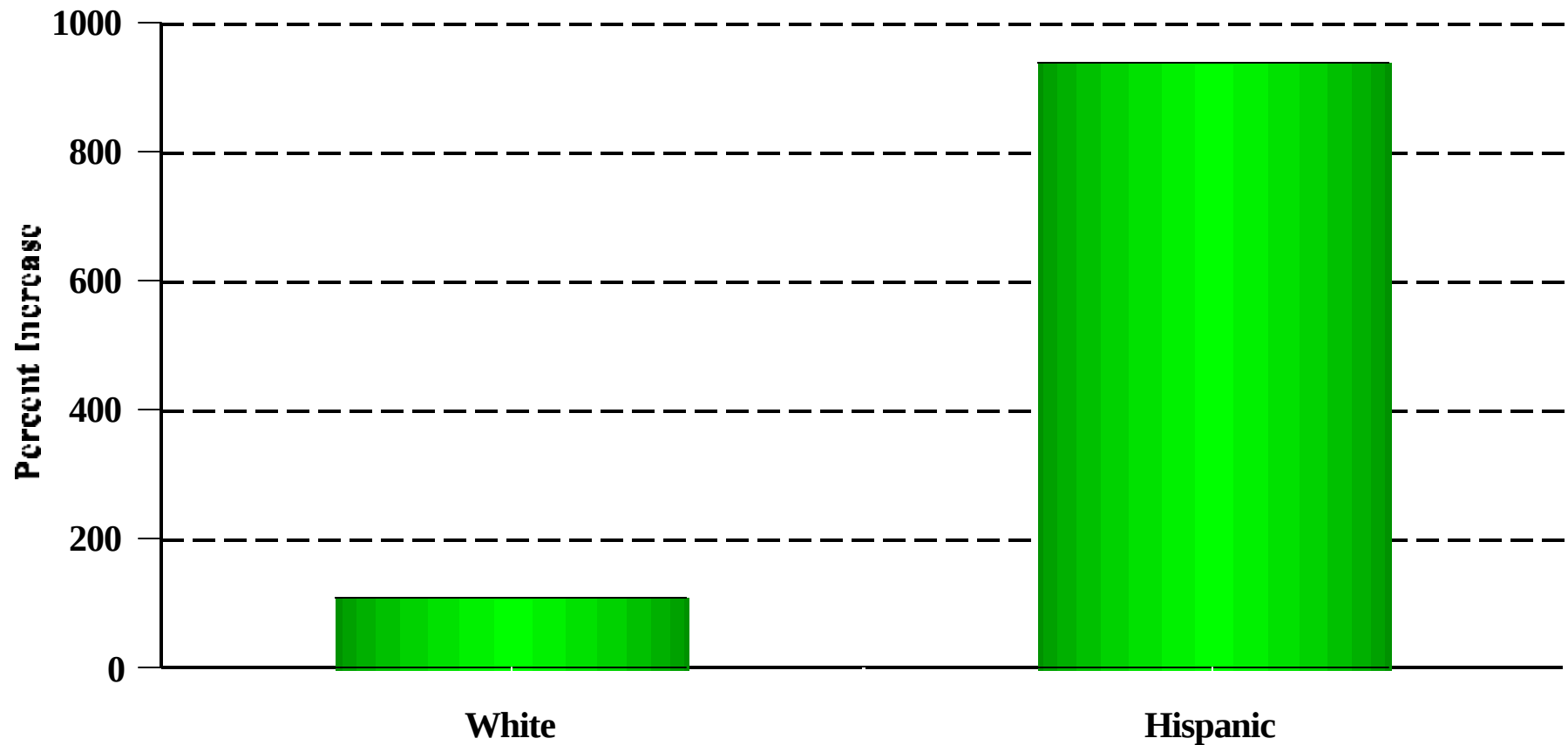
(1992 - 1998)



SOURCE: U.S. Sentencing Commission, 1992-1998 Datafiles, USSCFY92-USSCFY98.

Figure 4: Percent Increase of White vs. Hispanic Methamphetamine Traffickers

(1992 - 1998)



SOURCE: U.S. Sentencing Commission, 1992-1998 Datafiles, USSCFY92-USSCFY98.