

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2987



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 10 Jan 2006 TIME: 1:20pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 2

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Please prepare a new
(FIN) workdraft for SB 70
24-GS1049\C Luckhaupt 1/5/06
plus 1 amendment - attached

Thanks,

Mindy

CS FOR SENATE BILL NO. 70(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to controlled substances and listed chemicals; relating to the crimes of
2 manslaughter and misconduct involving a controlled substance as those crimes concern
3 controlled substances; relating to the manufacture of methamphetamine and to the sale,
4 possession, and delivery of certain substances and precursors used in the manufacture of
5 methamphetamine; relating to listing certain anabolic steroids as controlled substances;
6 relating to the listing of property that constitutes an illegal drug manufacturing site;
7 amending Rule 41, Alaska Rules of Criminal Procedure; and providing for an effective
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 11.41.120(a) is amended to read:

- 11 (a) A person commits the crime of manslaughter if the person
- 12 (1) intentionally, knowingly, or recklessly causes the death of another

1 person under circumstances not amounting to murder in the first or second degree;
2 [OR]

3 (2) intentionally aids another person to commit suicide; or

4 (3) knowingly manufactures or delivers a controlled substance in
5 violation of AS 11.71.010 - 11.71.030 or 11.71.040(a)(1) for schedule IVA
6 controlled substances, and a person dies as a direct result of ingestion of the
7 controlled substance; the death is a result that does not require a culpable mental
8 state; in this paragraph, "ingestion" means voluntarily or involuntarily taking a
9 substance into the body in any manner.

10 * Sec. 2. AS 11.71.020(a) is amended to read:

11 (a) Except as authorized in AS 17.30, a person commits the crime of
12 misconduct involving a controlled substance in the second degree if the person

13 (1) manufactures or delivers any amount of a schedule IA controlled
14 substance or possesses any amount of a schedule IA controlled substance with intent
15 to manufacture or deliver;

16 (2) manufactures any material, compound, mixture, or preparation that
17 contains

18 (A) methamphetamine, or its salts, isomers, or salts of isomers;

19 or

20 (B) an immediate precursor of methamphetamine, or its salts,
21 isomers, or salts of isomers;

22 (3) possesses an immediate precursor of methamphetamine, or the
23 salts, isomers, or salts of isomers of the immediate precursor of methamphetamine,
24 with the intent to manufacture any material, compound, mixture, or preparation that
25 contains methamphetamine, or its salts, isomers, or salts of isomers; [OR]

26 (4) possesses a listed chemical with intent to manufacture any material,
27 compound, mixture, or preparation that contains

28 (A) methamphetamine, or its salts, isomers, or salts of isomers;

29 or

30 (B) an immediate precursor of methamphetamine, or its salts,
31 isomers, or salts of isomer;

1 (5) possesses methamphetamine in an organic solution with intent
2 to extract from it methamphetamine or its salts, isomers, or salts of isomers; or

3 (6) under circumstances not proscribed under AS 11.71.010(a)(2),
4 delivers

5 (A) an immediate precursor of methamphetamine, or the
6 salts, isomers, or salts of isomers of the immediate precursor of
7 methamphetamine, to another person with reckless disregard that the
8 precursor will be used to manufacture any material, compound, mixture,
9 or preparation that contains methamphetamine, or its salts, isomers, or
10 salts of isomers; or

11 (B) a listed chemical to another person with reckless
12 disregard that the listed chemical will be used to manufacture any
13 material, compound, mixture, or preparation that contains

14 (i) methamphetamine, or its salts, isomers, or salts of
15 isomers;

16 (ii) an immediate precursor of methamphetamine, or
17 its salts, isomers, or salts of isomers; or

18 (iii) methamphetamine or its salts, isomers, or salts
19 of isomers in an organic solution.

20 * Sec. 3. AS 11.71.020 is amended by adding a new subsection to read:

21 (d) In a prosecution under (a) of this section, possession of more than six
22 grams of the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, the
23 salts, isomers, or salts of isomers of those chemicals is prima facie evidence that the
24 person intended to use the listed chemicals to manufacture, to aid or abet another
25 person to manufacture, or to deliver to another person who intends to manufacture
26 methamphetamine, its immediate precursors, or the salts, isomers, or salts of isomers
27 of methamphetamine or its immediate precursors. The prima facie evidence described
28 in this subsection does not apply to a person who possesses

29 (1) the listed chemicals ephedrine, pseudoephedrine,
30 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals

31 (A) and the listed chemical was dispensed to the person under a

1 valid prescription; or

2 (B) in the ordinary course of a legitimate business, or an
3 employee of a legitimate business, as a

4 (i) retailer or as a wholesaler;

5 (ii) wholesale drug distributor licensed by the Board of
6 Pharmacy;

7 (iii) manufacturer of drug products licensed by the
8 Board of Pharmacy;

9 (iv) pharmacist licensed by the Board of Pharmacy; or

10 (v) health care professional licensed by the state; or

11 (2) less than 24 grams of ephedrine, pseudoephedrine,
12 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals,
13 kept in a locked storage area on the premises of a legitimate business or nonprofit
14 organization operating a camp, lodge, school, day care center, treatment center, or
15 other organized group activity, and the location or nature of the activity, or the age of
16 the participants, makes it impractical for the participants in the activity to obtain
17 medicinal products.

18 * Sec. 4. AS 11.71.030(a) is amended to read:

19 (a) Except as authorized in AS 17.30, a person commits the crime of
20 misconduct involving a controlled substance in the third degree if the person

21 (1) under circumstances not proscribed under AS 11.71.020(a)(2) - (6)
22 [AS 11.71.020(a)(2) - (4)], manufactures or delivers any amount of a schedule IIA or
23 IIIA controlled substance or possesses any amount of a schedule IIA or IIIA controlled
24 substance with intent to manufacture or deliver;

25 (2) delivers any amount of a schedule IVA, VA, or VIA controlled
26 substance to a person under 19 years of age who is at least three years younger than
27 the person delivering the substance; or

28 (3) possesses any amount of a schedule IA or IIA controlled substance

29 (A) with reckless disregard that the possession occurs

30 (i) on or within 500 feet of school grounds; or

31 (ii) at or within 500 feet of a recreation or youth center;

1 or

2 (B) on a school bus.

3 * Sec. 5. AS 11.71.180 is amended by adding a new subsection to read:

4 (f) Schedule VA includes, unless specifically excepted or unless listed in
5 another schedule, any material, compound, mixture, or preparation that contains any
6 quantity of the following substances, including their salts, esters, isomers, and salts of
7 esters and isomers if those salts, esters, or isomers promote muscle growth, whenever
8 the existence of these salts, esters, and isomers is possible within the specific chemical
9 designation: anabolic steroids. In this subsection, "anabolic steroids" means any drug
10 or hormonal substance that is chemically and pharmacologically related to testosterone
11 (other than estrogens, progestins, and corticosteroids) and that promotes muscle
12 growth; "anabolic steroids" does not include an anabolic steroid that is expressly
13 intended for administration through implants to cattle or other nonhuman species and
14 that has been approved by the United States Secretary of Health and Human Services
15 for that administration, unless a person prescribes, dispenses, or distributes that type of
16 anabolic steroid for human use; "anabolic steroids" includes the following:

- 17 (1) boldenone;
- 18 (2) chlorotestosterone (4-chlorotestosterone);
- 19 (3) clostebol;
- 20 (4) dehydrochloromethyltestosterone;
- 21 (5) dihydrotestosterone (4-dihydrotestosterone);
- 22 (6) drostanolone;
- 23 (7) ethylestrenol;
- 24 (8) fluoxymesterone;
- 25 (9) formebolone (formebolone);
- 26 (10) mesterolone;
- 27 (11) methandienone;
- 28 (12) methandranone;
- 29 (13) methandriol;
- 30 (14) methandrostenolone;
- 31 (15) methenolone;

- 1 (16) methyltestosterone;
 2 (17) mibolerone;
 3 (18) nandrolone;
 4 (19) norethandrolone;
 5 (20) oxandrolone;
 6 (21) oxymesterone;
 7 (22) oxymetholone;
 8 (23) stanolone;
 9 (24) stanozolol;
 10 (25) testolactone;
 11 (26) testosterone;
 12 (27) trenbolone.

13 * Sec. 6. AS 11.71 is amended by adding a new section to article 2 to read:

14 **Sec. 11.71.210. Purchase or receipt of restricted amounts of certain listed**
 15 **chemicals.** (a) A person commits the crime of purchase or receipt of restricted
 16 amounts of certain listed chemicals if the person purchases or receives more than six
 17 grams of the following listed chemical, its salts, isomers, or salts of isomers within
 18 any 30-day period:

- 19 (1) ephedrine under AS 11.71.200(4);
 20 (2) pseudoephedrine under AS 11.71.200(13);
 21 (3) phenylpropanolamine under AS 11.71.200(11).

22 (b) This section does not apply to a person who lawfully purchases or receives
 23 more than six grams of a listed chemical identified in (a) of this section

24 (1) that was dispensed to the person under a valid prescription; or
 25 (2) in the ordinary course of a legitimate business, or to an employee
 26 of a legitimate business, as a

27 (A) retailer or as a wholesaler;

28 (B) wholesale drug distributor licensed by the Board of

29 Pharmacy;

30 (C) manufacturer of drug products licensed by the Board of

31 Pharmacy;

1 (D) pharmacist licensed by the Board of Pharmacy; or

2 (E) a health care professional licensed by the state.

3 (c) Purchase or receipt of restricted amounts of certain listed chemicals is a
4 class C felony.

5 * Sec. 7. AS 12.30.023 is amended by adding a new subsection to read:

6 (b) In addition to conditions the court may impose under (a) of this section and
7 notwithstanding other provisions in this chapter, if the defendant is charged with
8 manufacturing methamphetamine under AS 11.71.020(a)(2), unless the defendant
9 proves to the satisfaction of the court that the defendant's only role in the offense was
10 as an aider or abettor and that the defendant did not stand to benefit financially from
11 the manufacturing, the court shall require the posting of a minimum of \$250,000 cash
12 bond if the defendant has previously been convicted in this or another jurisdiction of
13 manufacturing, delivering, or possessing methamphetamine.

14 * Sec. 8. AS 12.55.125(c) is amended to read:

15 (c) Except as provided in (i) of this section, a defendant convicted of a class A
16 felony may be sentenced to a definite term of imprisonment of not more than 20 years,
17 and shall be sentenced to a definite term within the following presumptive ranges,
18 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

19 (1) if the offense is a first felony conviction and does not involve
20 circumstances described in (2) of this subsection, five to eight years;

21 (2) if the offense is a first felony conviction

22 (A) and the defendant possessed a firearm, used a dangerous
23 instrument, or caused serious physical injury or death during the commission
24 of the offense, or knowingly directed the conduct constituting the offense at a
25 uniformed or otherwise clearly identified peace officer, fire fighter,
26 correctional employee, emergency medical technician, paramedic, ambulance
27 attendant, or other emergency responder who was engaged in the performance
28 of official duties at the time of the offense, seven to 11 years;

29 (B) and the conviction is for manufacturing related to
30 methamphetamine under AS 11.71.020(a)(2)(A) or (B), seven to 11 years,
31 if

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(i) the manufacturing occurred in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of manufacturing or in preparation for manufacturing, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, 10 to 14 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (l) of this section, 15 to 20 years.

* Sec. 9. AS 12.55.125(d) is amended to read:

(d) Except as provided in (i) of this section, a defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, one to three years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085 if, as a condition of probation under AS 12.55.086, the defendant is required to serve an active term of imprisonment within the range specified in this paragraph, unless the court finds that a mitigation factor under AS 12.55.155 applies;

(2) if the offense is a first felony conviction,

(A) the defendant violated AS 11.41.130, and the victim was a child under 16 years of age, two to four years;

(B) two to four years if the conviction is for an attempt, solicitation, or conspiracy to manufacture related to methamphetamine under AS 11.31 and AS 11.71.020(a)(2)(A) or (B), and

(i) the attempted manufacturing occurred, or the

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solicited or conspired offense was to have occurred, in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of an attempt to manufacture, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, four to seven years;

(4) if the offense is a third felony conviction, six to 10 years.

* Sec. 10. AS 12.55.185 is amended by adding a new paragraph to read:

(19) "building," in addition to its usual meaning, includes any propelled vehicle or structure adopted for overnight accommodation of persons or for carrying on business; when a building consists of separate units, including apartment units, offices, or rented rooms, each unit is considered a part of the same building.

* Sec. 11. AS 17.30 is amended by adding a new section to article 1 to read:

Sec. 17.30.090. Sale or dispensation of certain listed chemicals. (a) If a product or substance contains ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, or iodine or crystal iodine, a retailer or employee or agent of a retailer may not sell, deliver, dispense, distribute, or in any manner furnish the product or substance to a person unless the retailer or employee or agent of the retailer confirms the identity of the person by current and valid government-issued photo identification.

(b) If a product or substance contains ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, or iodine or crystal iodine, a retailer or employee or agent of a retailer may not offer to sell, deliver, dispense, distribute, or in any manner furnish the product or substance unless it is displayed behind a service counter so it is not accessible to the public or is kept in a secure cabinet or storage area not accessible to the public.

(c) A retailer or employee or agent of a retailer may not sell, deliver, dispense, distribute, or in any manner furnish a product or substance containing, ephedrine,

1 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers,
2 or iodine or crystal iodine, to a person who is under 18 years of age.

3 (d) Nothing in this section limits the authority of a retailer or employee or
4 agent of a retailer regulated by this section to report to a law enforcement agency or
5 officer suspicious purchases of a chemical, product, or substance. A retailer or
6 employee or agent of a retailer is not liable in a civil action for release of information
7 to a law enforcement agency concerning matters related to this section.

8 (e) It is an affirmative defense to a prosecution under this section that the
9 retailer

10 (1) exercised the degree of care of a reasonable employer to ensure
11 compliance with (a) - (c) of this section; and

12 (2) determined that the employees and agents of the retailer had been
13 notified of the requirements of this section by

14 (A) securing the employee's or agent's written acknowledgment
15 of notification of those requirements; or

16 (B) making another appropriate determination.

17 (f) A person who knowingly violates (a), (b), or (c) of this section is guilty of
18 a class A misdemeanor, punishable upon conviction only by a fine in an amount not to
19 exceed \$10,000.

20 (g) In this section,

21 (1) "agent" has the meaning given in AS 11.71.900;

22 (2) "deliver" has the meaning given in AS 11.71.900;

23 (3) "dispense" has the meaning given in AS 11.71.900;

24 (4) "distribute" has the meaning given in AS 11.71.900;

25 (5) "knowingly" has the meaning given in AS 11.81.900(a);

26 (6) "retailer" means a person, whether in this state or outside the state,
27 who deals with a product or substance described in (a) of this section, by selling,
28 delivering, dispensing, distribution, or in any manner furnishing the product or
29 substance to a person in this state who is the ultimate user or consumer of the product
30 or substance; "retailer" does not include a practitioner as defined in AS 11.71.900, but
31 does include a pharmacy.

1 * Sec. 12. AS 46.03.500 is amended by adding a new subsection to read:

2 (f) The department shall maintain on its Internet website a list of all properties
3 for which a notice has been issued under (a) of this section. For each of those
4 properties, the list must contain the parcel identification number, legal description, and
5 physical address and owner's name at the time the notice was issued.

6 * Sec. 13. AS 46.03.550(b) is amended to read:

7 (b) The department shall maintain a list of properties for which the department
8 has received notice under AS 46.03.500(c). When the department determines under (a)
9 of this section that a property on the list is fit for use, the department shall note on the
10 list maintained on its Internet website under AS 46.03.500(f), and on any other
11 list or database it maintains related to illegal drug manufacturing sites that the
12 property is fit for use [REMOVE THE PROPERTY FROM THE LIST] and shall
13 notify the owner of the property that the property is fit for use. The property shall
14 remain on the lists or databases for five years after it is determined that the
15 property is fit for use and shall be removed from the lists or databases within
16 three months after the five year period has elapsed. On request, the department
17 shall give a copy of the list maintained under this section to any person who requests
18 the list.

19 * Sec. 14. The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 INDIRECT COURT RULE AMENDMENT. Section 7 of this Act has the effect of
22 amending Rule 41, Alaska Rules of Criminal Procedure, by limiting the type and amount of
23 bond that can be posted to secure the pretrial release of certain defendants charged with
24 manufacturing methamphetamine under AS 11.71.020(a)(2).

25 * Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 APPLICABILITY. Sections 1 - 11 and 14 of this Act apply to offenses committed on
28 or after the effective date of this Act.

29 * Sec. 16. This Act takes effect July 1, 2006.

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or

(B) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomers; or

(5) possesses methamphetamine in an organic solution with intent to extract from the solution methamphetamine salts, isomers, or salts of isomers [ISOMER].

* Sec. 4. AS 11.71.180 is amended by adding a new subsection to read:

(f) Schedule VA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including their salts, esters, isomers, and salts of esters and isomers if those salts, esters, or isomers promote muscle growth, whenever the existence of these salts, esters, and isomers is possible within the specific chemical designation: anabolic steroids. In this subsection, "anabolic steroids" means any drug or hormonal substance that is chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) and that promotes muscle growth; "anabolic steroids" does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the United States Secretary of Health and Human Services for that administration, unless a person prescribes, dispenses, or distributes that type of anabolic steroid for human use; "anabolic steroids" includes but is not limited to, the following:

delete

- (1) boldenone;
- (2) chlorotestosterone (4-chlorotestosterone);
- (3) clostebol;
- (4) dehydrochlormethyltestosterone;
- (5) dihydrotestosterone (4-dihydrotestosterone);
- (6) drostanolone;
- (7) ethylestrenol;
- (8) fluoxymesterone;
- (9) formebulone (formebolone);
- (10) mesterolone;

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SENATE FINANCE COMMITTEE
4 / 19 / 2005 COMMITTEE ACTION

Bill Number	SB 70		
Amendment	# 1		
Motion	to adopt		
<u>Motion by</u>	Bunde		
<u>Objection by</u>			
<u>Removed</u>	No objection		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Senator Olson			
Senator Stedman			
Co-Chair Wilken			
Co-Chair Green			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Adopted		

ADOPTED

4/19/05

24-GS1049L

Luckhaupt

4/16/05

CS FOR SENATE BILL NO. 70(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to controlled substances regarding the crimes of manslaughter and
 2 misconduct involving a controlled substance; relating to listing certain anabolic steroids
 3 as controlled substances; relating to the listing of property that constitutes an illegal
 4 drug manufacturing site; amending Rule 41, Alaska Rules of Criminal Procedure; and
 5 providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
 8 to read:

9 FINDINGS. The legislature finds that the illegal manufacturing of methamphetamine
 10 of the type that is generally encountered in Alaska subjects anyone within a wide area to the
 11 risk of fire, explosion, and toxic chemicals in gaseous, liquid, and solid form. This activity
 12 presents such a high level of danger to the community and to law enforcement and
 13 environmental personnel that the mandatory minimum cash bail required by sec. 5 of this Act

1 is justified for defendants described in that section.

2 * Sec. 2. AS 11.41.120(a) is amended to read:

3 (a) A person commits the crime of manslaughter if the person

4 (1) intentionally, knowingly, or recklessly causes the death of another
5 person under circumstances not amounting to murder in the first or second degree;
6 [OR]

7 (2) intentionally aids another person to commit suicide; or

8 (3) knowingly manufactures or delivers a controlled substance in
9 violation of AS 11.71, and a person dies as a direct result of ingesting the
10 controlled substance; the death is a result that does not require a culpable mental
11 state; in this paragraph, "ingesting" means voluntarily or involuntarily taking a
12 substance into the body in any manner.

13 * Sec. 3. AS 11.71.020(a) is amended to read:

14 (a) Except as authorized in AS 17.30, a person commits the crime of
15 misconduct involving a controlled substance in the second degree if the person

16 (1) manufactures or delivers any amount of a schedule IA controlled
17 substance or possesses any amount of a schedule IA controlled substance with intent
18 to manufacture or deliver;

19 (2) manufactures any material, compound, mixture, or preparation that
20 contains

21 (A) methamphetamine, or its salts, isomers, or salts of isomers;

22 or

23 (B) an immediate precursor of methamphetamine, or its salts,
24 isomers, or salts of isomers;

25 (3) possesses an immediate precursor of methamphetamine, or the
26 salts, isomers, or salts of isomers of the immediate precursor of methamphetamine,
27 with the intent to manufacture any material compound, mixture, or preparation that
28 contains methamphetamine, or its salts, isomers, or salts of isomers; [OR]

29 (4) possesses a listed chemical with intent to manufacture any material,
30 compound, mixture, or preparation that contains

31 (A) methamphetamine, or its salts, isomers, or salts of isomers;

1 or

2 (B) an immediate precursor of methamphetamine, or its salts,
3 isomers, or salts of isomers; or

4 (5) possesses methamphetamine in an organic solution with intent
5 to extract from the solution methamphetamine salts, isomers, or salts of isomers
6 [ISOMER].

7 * Sec. 4. AS 11.71.180 is amended by adding a new subsection to read:

8 (f) Schedule VA includes, unless specifically excepted or unless listed in
9 another schedule, any material, compound, mixture, or preparation that contains any
10 quantity of the following substances, including their salts, esters, isomers, and salts of
11 esters and isomers if those salts, esters, or isomers promote muscle growth, whenever
12 the existence of these salts, esters, and isomers is possible within the specific chemical
13 designation: anabolic steroids. In this subsection, "anabolic steroids" means any drug
14 or hormonal substance that is chemically and pharmacologically related to testosterone
15 (other than estrogens, progestins, and corticosteroids) and that promotes muscle
16 growth; "anabolic steroids" does not include an anabolic steroid that is expressly
17 intended for administration through implants to cattle or other nonhuman species and
18 that has been approved by the United States Secretary of Health and Human Services
19 for that administration, unless a person prescribes, dispenses, or distributes that type of
20 anabolic steroid for human use; "anabolic steroids" includes, but is not limited to, the
21 following:

- 22 (1) boldenone;
- 23 (2) chlorotestosterone (4-chlorotestosterone);
- 24 (3) clostebol;
- 25 (4) dehydrochlormethyltestosterone;
- 26 (5) dihydrotestosterone (4-dihydrotestosterone);
- 27 (6) drostanolone;
- 28 (7) ethylestrenol;
- 29 (8) fluoxymesterone;
- 30 (9) formebolone (formebolone);
- 31 (10) mesterolone;

- 1 (11) methandienone;
- 2 (12) methandranone;
- 3 (13) methandriol;
- 4 (14) methandrostenolone;
- 5 (15) methenolone;
- 6 (16) methyltestosterone;
- 7 (17) mibolerone;
- 8 (18) nandrolone;
- 9 (19) norethandrolone;
- 10 (20) oxandrolone;
- 11 (21) oxymesterone;
- 12 (22) oxymetholone;
- 13 (23) stanolone;
- 14 (24) stanozolol;
- 15 (25) testolactone;
- 16 (26) testosterone;
- 17 (27) trenbolone.

18 * Sec. 5. AS 12.30.023 is amended by adding a new subsection to read:

19 (b) In addition to conditions the court may impose under (a) of this section and
20 notwithstanding other provisions in this chapter, if the defendant is charged with
21 manufacturing methamphetamine under AS 11.71.020(a)(2), unless the defendant
22 proves to the satisfaction of the court that the defendant's only role in the offense was
23 as an aider or abettor and that the defendant did not stand to benefit financially from
24 the manufacturing, the court shall require the posting of a minimum of \$250,000 cash
25 bond if the defendant has previously been convicted in this or another jurisdiction of
26 manufacturing, delivering, or possessing methamphetamine.

27 * Sec. 6. AS 12.55.125(c), as amended by ch. 2, sec. 8, SLA 2005, is amended to read:

28 (c) Except as provided in (i) of this section, a defendant convicted of a class A
29 felony may be sentenced to a definite term of imprisonment of not more than 20 years,
30 and shall be sentenced to a definite term within the following presumptive ranges,
31 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

1 (1) if the offense is a first felony conviction and does not involve
2 circumstances described in (2) of this subsection, five to eight years;

3 (2) if the offense is a first felony conviction

4 (A) and the defendant possessed a firearm, used a dangerous
5 instrument, or caused serious physical injury or death during the commission
6 of the offense, or knowingly directed the conduct constituting the offense at a
7 uniformed or otherwise clearly identified peace officer, fire fighter,
8 correctional employee, emergency medical technician, paramedic, ambulance
9 attendant, or other emergency responder who was engaged in the performance
10 of official duties at the time of the offense, seven to 11 years;

11 (B) and the conviction is for manufacturing related to
12 methamphetamine under AS 11.71.020(a)(2)(A) or (B), seven to 11 years,
13 if

14 (i) the manufacturing occurred in a building with
15 reckless disregard that the building was used as a permanent or
16 temporary home or place of lodging for one or more children
17 under 18 years of age or the building was a place frequented by
18 children; or

19 (ii) in the course of manufacturing or in preparation
20 for manufacturing, the defendant obtained the assistance of one or
21 more children under 18 years of age or one or more children were
22 present;

23 (3) if the offense is a second felony conviction, 10 to 14 years;

24 (4) if the offense is a third felony conviction and the defendant is not
25 subject to sentencing under (f) of this section, 15 to 20 years.

26 * Sec. 7. AS 12.55.125(d), as amended by ch. 2, sec. 9, SLA 2005, is amended to read:

27 (d) Except as provided in (i) of this section, a defendant convicted of a class B
28 felony may be sentenced to a definite term of imprisonment of not more than 10 years,
29 and shall be sentenced to a definite term within the following presumptive ranges,
30 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

31 (1) if the offense is a first felony conviction and does not involve

1 circumstances described in (2) of this subsection, one to three years; a defendant
 2 sentenced under this paragraph may, if the court finds it appropriate, be granted a
 3 suspended imposition of sentence under AS 12.55.085 if, as a condition of probation
 4 under AS 12.55.086, the defendant is required to serve an active term of imprisonment
 5 within the range specified in this paragraph, unless the court finds that a mitigation
 6 factor under AS 12.55.155 applies;

7 (2) if the offense is a first felony conviction,

8 (A) the defendant violated AS 11.41.130, and the victim was a
 9 child under 16 years of age, two to four years;

10 (B) two to four years if the conviction is for an attempt,
 11 solicitation, or conspiracy to manufacture related to methamphetamine
 12 under AS 11.31 and AS 11.71.020(a)(2)(A) or (B), and

13 (i) the attempted manufacturing occurred, or the
 14 solicited or conspired offense was to have occurred, in a building
 15 with reckless disregard that the building was used as a permanent
 16 or temporary home or place of lodging for one or more children
 17 under 18 years of age or the building was a place frequented by
 18 children; or

19 (ii) in the course of an attempt to manufacture, the
 20 defendant obtained the assistance of one or more children under 18
 21 years of age or one or more children were present;

22 (3) if the offense is a second felony conviction, four to seven years;

23 (4) if the offense is a third felony conviction, six to 10 years.

24 * Sec. 8. AS 12.55.185 is amended by adding a new paragraph to read:

25 (1) "building," in addition to its usual meaning, includes any propelled
 26 vehicle or structure adopted for overnight accommodation of persons or for carrying
 27 on business; when a building consists of separate units, including apartment units,
 28 offices, or rented rooms, each unit is considered a part of the same building.

29 * Sec. 9. AS 46.03.500 is amended by adding a new subsection to read:

30 (f) The department shall maintain on its Internet website a list of all properties
 31 for which a notice has been issued under (a) of this section. For each of those

1 properties, the list must contain the parcel identification number, legal description, and
2 physical address.

3 * Sec. 10. AS 46.03.550(b) is amended to read:

4 (b) The department shall maintain a list of properties for which the department
5 has received notice under AS 46.03.500(c). When the department determines under (a)
6 of this section that a property on the list is fit for use, the department shall note on the
7 list maintained on its Internet website under AS 46.03.500(f), and on any other
8 list or database it maintains related to illegal drug manufacturing sites, that the
9 property is fit for use [REMOVE THE PROPERTY FROM THE LIST] and shall
10 notify the owner of the property that the property is fit for use. On request, the
11 department shall give a copy of the list maintained under this section to any person
12 who requests the list.

13 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 INDIRECT COURT RULE AMENDMENT. Section 5 of this Act has the effect of
16 amending Rule 41, Alaska Rules of Criminal Procedure, by limiting the type and amount of
17 bond that can be posted to secure the pretrial release of certain defendants charged with
18 manufacturing methamphetamine under AS 11.71.020(a)(2).

19 * Sec. 12. The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 APPLICABILITY. Sections 2 - 8 and 11 of this Act apply to offenses committed on
22 or after the effective date of this Act.

23 * Sec. 13. This Act takes effect July 1, 2005.

Adopted 4/6/05

WORK DRAFT

WORK DRAFT

WORK DRAFT

24-GS1049Y

Luckhaupt

4/6/05

**CS FOR SENATE BILL NO. 70(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to controlled substances regarding the crimes of manslaughter and
2 misconduct involving a controlled substance; relating to listing certain anabolic steroids
3 as controlled substances; amending Rule 41, Alaska Rules of Criminal Procedure; and
4 providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 **FINDINGS.** The legislature finds that the illegal manufacturing of methamphetamine
9 of the type that is generally encountered in Alaska subjects anyone within a wide area to the
10 risk of fire, explosion, and toxic chemicals in gaseous, liquid, and solid form. This activity
11 presents such a high level of danger to the community and to law enforcement and
12 environmental personnel that the mandatory minimum cash bail required by sec. 6 of this Act
13 is justified for defendants described in that section.

14 * **Sec. 2.** AS 11.41.120(a) is amended to read:

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(a) A person commits the crime of manslaughter if the person

(1) intentionally, knowingly, or recklessly causes the death of another person under circumstances not amounting to murder in the first or second degree; [OR]

(2) intentionally aids another person to commit suicide; or

(3) knowingly manufactures or delivers a controlled substance in violation of AS 11.71, and a person dies as a direct result of ingesting the controlled substance; the death is a result that does not require a culpable mental state; in this paragraph, "ingesting" means voluntarily or involuntarily taking a substance into the body in any manner.

* Sec. 3. AS 11.71.020(a) is amended to read:

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the second degree if the person

(1) manufactures or delivers any amount of a schedule IA controlled substance or possesses any amount of a schedule IA controlled substance with intent to manufacture or deliver;

(2) manufactures any material, compound, mixture, or preparation that contains

(A) methamphetamine, or its salts, isomers, or salts of isomers;

or

(B) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomers;

(3) possesses an immediate precursor of methamphetamine, or the salts, isomers, or salts of isomers of the immediate precursor of methamphetamine, with the intent to manufacture any material compound, mixture, or preparation that contains methamphetamine, or its salts, isomers, or salts of isomers; [OR]

(4) possesses a listed chemical with intent to manufacture any material, compound, mixture, or preparation that contains

(A) methamphetamine, or its salts, isomers, or salts of isomers;

or

(B) an immediate precursor of methamphetamine, or its salts,

1 isomers, or salts of isomers; or

2 (5) possesses methamphetamine in an organic solution with intent
3 to extract from the solution methamphetamine salts, isomers, or salts of isomers
4 [ISOMER].

5 * Sec. 4. AS 11.71.180 is amended by adding a new subsection to read:

6 (f) Schedule VA includes, unless specifically excepted or unless listed in
7 another schedule, any material, compound, mixture, or preparation that contains any
8 quantity of the following substances, including their salts, esters, isomers, and salts of
9 esters and isomers if those salts, esters, or isomers promote muscle growth, whenever
10 the existence of these salts, esters, and isomers is possible within the specific chemical
11 designation: anabolic steroids. In this subsection, "anabolic steroids" means any drug
12 or hormonal substance that is chemically and pharmacologically related to testosterone
13 (other than estrogens, progestins, and corticosteroids) and that promotes muscle
14 growth; "anabolic steroids" does not include an anabolic steroid that is expressly
15 intended for administration through implants to cattle or other nonhuman species and
16 that has been approved by the United States Secretary of Health and Human Services
17 for that administration, unless a person prescribes, dispenses, or distributes that type of
18 anabolic steroid for human use; "anabolic steroids" includes, but is not limited to, the
19 following:

- 20 (1) boldenone;
- 21 (2) chlorotestosterone (4-chlorotestosterone);
- 22 (3) clostebol;
- 23 (4) dehydrochloromethyltestosterone;
- 24 (5) dihydrotestosterone (4-dihydrotestosterone);
- 25 (6) drostanolone;
- 26 (7) ethylestrenol;
- 27 (8) fluoxymesterone;
- 28 (9) formebolone (formebolone);
- 29 (10) mesterolone;
- 30 (11) methandienone;
- 31 (12) methandranone;

- 1 (13) methandriol;
- 2 (14) methandrostenolone;
- 3 (15) methenolone;
- 4 (16) methyltestosterone;
- 5 (17) mibolerone;
- 6 (18) nandrolone;
- 7 (19) norethandrolone;
- 8 (20) oxandrolone;
- 9 (21) oxymesterone;
- 10 (22) oxymetholone;
- 11 (23) stanolone;
- 12 (24) stanozolol;
- 13 (25) testolactone;
- 14 (26) testosterone;
- 15 (27) trenbolone.

16 * **Sec. 5.** AS 12.30.023 is amended by adding a new subsection to read:

17 (b) In addition to conditions the court may impose under (a) of this section and
18 notwithstanding other provisions in this chapter, if the defendant is charged with
19 manufacturing methamphetamine under AS 11.71.020(a)(2), unless the defendant
20 proves to the satisfaction of the court that the defendant's only role in the offense was
21 as an aider or abettor and that the defendant did not stand to benefit financially from
22 the manufacturing, the court shall require the posting of a minimum of \$250,000 cash
23 bond if the defendant

- 24 (1) possessed a firearm while engaged in the manufacturing; or
- 25 (2) has previously been convicted in this or another jurisdiction of
26 manufacturing, delivering, or possessing methamphetamine.

27 * **Sec. 6.** AS 12.55.125(c), as amended by ch. 2, sec. 8, SLA 2005, is amended to read:

28 (c) Except as provided in (i) of this section, a defendant convicted of a class A
29 felony may be sentenced to a definite term of imprisonment of not more than 20 years,
30 and shall be sentenced to a definite term within the following presumptive ranges,
31 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

1 (1) if the offense is a first felony conviction and does not involve
2 circumstances described in (2) of this subsection, five to eight years;

3 (2) if the offense is a first felony conviction

4 (A) and the defendant possessed a firearm, used a dangerous
5 instrument, or caused serious physical injury or death during the commission
6 of the offense, or knowingly directed the conduct constituting the offense at a
7 uniformed or otherwise clearly identified peace officer, fire fighter,
8 correctional employee, emergency medical technician, paramedic, ambulance
9 attendant, or other emergency responder who was engaged in the performance
10 of official duties at the time of the offense, seven to 11 years;

11 (B) and the conviction is for manufacturing related to
12 methamphetamine under AS 11.71.020(a)(2)(A) or (B), seven to 11 years,
13 if

14 (i) the manufacturing occurred in a building with
15 reckless disregard that the building was used as a permanent or
16 temporary home or place of lodging for one or more children
17 under 18 years of age or the building was a place frequented by
18 children; or

19 (ii) in the course of manufacturing or in preparation
20 for manufacturing, the defendant obtained the assistance of one or
21 more children under 18 years of age or one or more children were
22 present;

23 (3) if the offense is a second felony conviction, 10 to 14 years;

24 (4) if the offense is a third felony conviction and the defendant is not
25 subject to sentencing under (1) of this section, 15 to 20 years.

26 * Sec. 7. AS 12.55.125(d), as amended by ch. 2, sec. 9, SLA 2005, is amended to read:

27 (d) Except as provided in (i) of this section, a defendant convicted of a class B
28 felony may be sentenced to a definite term of imprisonment of not more than 10 years,
29 and shall be sentenced to a definite term within the following presumptive ranges,
30 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

31 (1) if the offense is a first felony conviction and does not involve

1 circumstances described in (2) of this subsection, one to three years; a defendant
2 sentenced under this paragraph may, if the court finds it appropriate, be granted a
3 suspended imposition of sentence under AS 12.55.085 if, as a condition of probation
4 under AS 12.55.086, the defendant is required to serve an active term of imprisonment
5 within the range specified in this paragraph, unless the court finds that a mitigation
6 factor under AS 12.55.155 applies;

7 (2) if the offense is a first felony conviction,

8 (A) the defendant violated AS 11.41.130, and the victim was a
9 child under 16 years of age, two to four years;

10 (B) two to four years if the conviction is for an attempt,
11 solicitation, or conspiracy to manufacture related to methamphetamine
12 under AS 11.31 and AS 11.71.020(a)(2)(A) or (B), and

13 (i) the attempted manufacturing occurred, or the
14 solicited or conspired offense was to have occurred, in a building
15 with reckless disregard that the building was used as a permanent
16 or temporary home or place of lodging for one or more children
17 under 18 years of age or the building was a place frequented by
18 children; or

19 (ii) in the course of an attempt to manufacture, the
20 defendant obtained the assistance of one or more children under 18
21 years of age or one or more children were present;

22 (3) if the offense is a second felony conviction, four to seven years;

23 (4) if the offense is a third felony conviction, six to 10 years.

24 * Sec. 8. AS 12.55.185 is amended by adding a new paragraph to read:

25 (1) "building," in addition to its usual meaning, includes any propelled
26 vehicle or structure adopted for overnight accommodation of persons or for carrying
27 on business; when a building consists of separate units, including apartment units,
28 offices, or rented rooms, each unit is considered a part of the same building.

29 * Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **INDIRECT COURT RULE AMENDMENT.** Section 5 of this Act has the effect of

1 amending Rule 41, Alaska Rules of Criminal Procedure, by limiting the type and amount of
2 bond that can be posted to secure the pretrial release of certain defendants charged with
3 manufacturing methamphetamine under AS 11.71.020(a)(2).

4 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 **APPLICABILITY.** This Act applies to offenses committed on or after the effective
7 date of this Act.

8 * **Sec. 11.** This Act takes effect July 1, 2005.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: SB070CS-LAW_CDCO-4
Bill Version: _____
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to controlled substances RDU CRIMINAL
regarding the crimes of manslaughter and misconduct..." Component CDCO
Sponsor Senate Rules Committee
Requester Senate Finance Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would make it manslaughter for a person to manufacture or deliver a controlled substance in violation of Alaska's drug laws if a person dies from ingesting the substance. The bill also creates new enhanced sentencing provisions to manufacture or attempt to manufacture methamphetamine in a building where children reside, or to use children to manufacture meth. It also raises the penalty for possessing methamphetamine in solution with intent to extract methamphetamine salts from it, and adds anabolic steroids to the list of controlled substances. The bill also sets a mandatory minimum bail for repeat offenders who manufacture methamphetamine. Finally, the bill requires the Department of Environmental Conservation to make public the list of remediated properties that previously were sites for meth labs. The Department of Law does not anticipate a significant fiscal impact from passage of this legislation.

Prepared by: Kathryn Daughhotee, Director
Division: Administrative Services
Approved by: Kathryn Daughhotee for David Marquez, Attorney General
Agency: Department of Law

Phone 465-5427
Date/Time 4/18/05 12:17 PM
Date 4/18/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB 70
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
Title: An Act Relating to Controlled Substances RDU: Spill Prevention & Response
Regarding Crimes of Manslaughter Component: Prevention & Emergency Response
Sponsor: Senate Rules Committee
Requester: Senate Finance Committee Component No. 2064

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The Department has reviewed the proposed legislation and determined there are no fiscal impacts.

Prepared by: Larry Dietrick
Division: Spill Prevention and Response
Approved by: Kurt Fredriksson, Commissioner
Agency: Department of Environmental Conservation

Phono: 465-5250
Date/Time: 4/18/2005 11:45 a.m.
Date: 4/18/2005

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

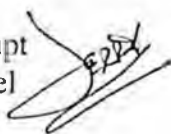
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 4, 2005

SUBJECT: CSSB 70(JUD) - Amendment Relating to "Includes"
(Work Order No. 24-GS10491F)

TO: Senator Ralph Seekins
Attn: Brian Hove

FROM: Gerald P. Luckhaupt
Legislative Counsel 

Enclosed is the CS(JUD) you requested. The Judiciary Committee adopted an amendment that inserted "but not limited to" following "includes" on page 3, line 26 of the CS(JUD). There are several problems with the inclusion of this language. First, the legislature has a definition of "includes" in AS 01.10.040(b). That subsection provides:

When the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not limited to.'

The amendment is not necessary. But the amendment is not just superfluous, it potentially could affect a court's decision to apply AS 01.10.040(b) in other areas of the statutes. A court or a litigant could ask: If the legislature actually intended for AS 01.10.040(b) to apply in all cases, why did the legislature use "but is not limited to" in this provision? A court could conclude that the legislature (1) no longer recognizes that AS 01.10.040(b) still applies universally in the Alaska Statutes, (2) never intended for that statute to apply throughout the Alaska Statutes, or (3) intends to provide what "includes" includes prospectively. To effectuate the legislature's power as the law-making authority of the state, the legislature should minimize the potential for the courts to construe the statutes in a manner that is inconsistent with what the legislature intended. Since the adoption of AS 01.10.040(b), the legislature has relied upon "includes" having the construction and meaning supplied in AS 01.10.040(b). Adding "but is not limited to" muddies the waters and potentially affects the construction of literally hundreds of statutes that use "includes."

GPL:jad
05-190.jad

Enclosure

COMMITTEE COPY

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Frank H. Murkowski, Governor

P.O. BOX 110300
DIAMOND COURT HOUSE, 6TH FLOOR
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-6735

March 29, 2005

The Honorable Lyda Green, Co-Chair
Senate Finance Committee
Alaska State Legislature
State Capitol, Room
Juneau, Alaska 99801-1182

Re: SCS SB 70 (JUD)

Dear Senator Green:

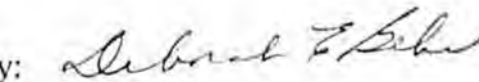
Backup documents related to SCS SB 70(JUD) are enclosed for your review and distribution to committee members.

If you have any questions, please contact Dean Guaneli, at the criminal division.

Sincerely,

SCOTT J. NORDSTRAND
ACTING ATTORNEY GENERAL

By:



David W. Márquez
Assistant Attorney General

DWM:DEB:rpr

cc: Kevin Jardell, Legislative Director, Office of the Governor
Deborah Behr, Legislation and Regulations Attorney, Department of Law

Hazards of Methamphetamine Production:

Typical Chemicals Found in Lab Sites	Common Legitimate Uses	Poison	Flammable	Toxic Vapors	Explosive	Corrosive	Skin Absorption	Common Health Hazard
Acetone	Fingernail polish remover, solvents	X	X	X			X	Reproductive disorders
Methanol	Brake Cleaner fluid, fuel	X	X	X			X	Blindness, eye damage
Ammonia	Disinfectants	X		X		X	X	Blistering, lung damage
Benzene	Dye, varnishes, lacquers	X	X		X	X	X	Carcinogen, Leukemia
Ether	Starters fluid, anesthetic	X	X		X			Respiratory Failure
Freon	Refrigerant, propellants	X		X		X		Frostbite, Lung damage
Hydriodic Acid	Driveway cleaner	X		X		X	X	Burns, Thyroid Damage
Hydrochloric Acid (HCL Gas)	Iron ore processing, mining	X		X		X	X	Respiratory, Liver Damage
Iodine Crystals	Antiseptic, Catalyst	X	X		X	X		Birth Defects, Kidney Failure
Lithium Metal	Lithium batteries	X				X	X	Burns, Pulmonary Edema
Muriatic Acid	Swimming pool cleaners	X		X		X		Burns, Toxic Vapors
Phosphine Gas	Pesticides	X		X			X	Respiratory Failure
Pseudoephedrine	Cold medicines	X						Abuse: Heart Damage
Red Phosphorus	Matches, fireworks	X	X	X	X			Unstable, Flammable
Sodium Hydroxide	Drain cleaners, eye	X		X		X	X	Burns, Skin Ulcers
Sulfuric Acid	Battery Acid	X		X		X	X	Burns, Thyroid Damage
Toluene	Paint, thinners, solvents	X	X	X	X		X	Fetal Damage, Pneumonia
Liquid Lab Waste	None	X	X	X	X	X	X	Unknown long term effects



Drug Endangered Children Pre

Riverside County, California



(951) 955 - METH (6384)

Dangers

Home

Dangers

F Y I

Statistics

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Dangers to Children Living at Meth Labs: Children Found in Meth Lab Homes

Description of two cases as sited in a NDIC Report, stating the living areas and physical condition of the children found in meth lab homes.

The five children ranged in age from 1 to 7 years old. The one-bedroom home had no electricity or heat other than a gas stove with the oven door opened. Used hypodermic needles and dog feces littered areas of the residence where the children were found playing. Because there were no beds for the children, they slept with blankets underneath a small card table in the front room. The bathroom had sewage backed up in the tub, leaving no place for the children to bathe. A subsequent hospital exam revealed that all the children were infected with hepatitis C. The youngest was very ill. His liver was enlarged to the size of an adult's. The children had needle marks on their feet, legs, hands, and arms from accidental contact with syringes.

At another lab site, a 2-year-old child was discovered during a lab seizure. Her parents both abused and manufactured methamphetamine. She was found with open, seeping sores around her eyes and on her forehead that resembled a severe burn. The condition was diagnosed as repeated, untreated cockroach bites.



Used hypodermic needles, razor blades and methamphetamine laying within reach of inquisitive children.



This is an poisoning waiting to happen. Plastic soda bottles are frequently used to store

methamphetamine in solution, acids, or even urine which can be recycled later.

Source: Text based on NDIC Report
Photos: Riverside Sheriff Dept Special Investigative Bureau

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frontiersman

Tuesday, November 30, 2004

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Methamphetamine waste out of control

JOHN DAVIDSON/Frontiersman reporter

MAT-SU -- It's not exposure to deadly chemicals that frightens them; nor is it the possibility of toxic vapors igniting and blowing up their house. It's that knock at the door they fear most of all.

Methamphetamine cooks are perhaps the most paranoid and unstable of all drug criminals. Most meth cooks are also meth addicts, and in heavy users the drug can cause extreme paranoia, psychotic behavior and, often, violence.

"We've had quite a few cases where we've seized weapons at a lab," said Sgt. Patrick Davis of the Mat-Su Drug Team. "When these people are tweaking, they are ultra-paranoid, they don't want to go to jail and they can become violent. One aspect of their paranoia is violence."

But the five officers who make up the Mat-Su Drug Team have more than paranoid meth addicts to deal with when they seize a lab. Sometimes the greatest danger to officers is the mix of chemicals and toxic vapors in an active meth lab.

Depending on what kind of intelligence they have about a lab, members of the team go in wearing masks and full chem suits. Two members of the team have attended a tactical clan-lab school in California -- a week of scenario-based training in which officers learn how to seize active meth labs while wearing chem suits, respirators and oxygen tanks.

The extra training has been valuable, since most of the team's work now centers on clandestine meth labs.

Four years ago, when Davis was assigned to the drug team, almost all the team's work dealt with marijuana and cocaine; now Davis says 80 to 85 percent of the team's time and resources are spent chasing down meth labs and cooks.



"An overwhelming number of the tips we get now are about meth labs," Davis said. "That doesn't mean other drugs aren't out there, we just have to prioritize our time."

The public-safety aspect is critical when it comes to meth labs, Davis said. Cooks tend to dump waste chemicals in the woods or in Dumpsters of apartment complexes; they also cook meth in hotel rooms. At least two Valley hotels unwittingly have played host to meth labs this year.

The fact that in 2003, more than half of all meth labs seized statewide were operating in the Valley -- Davis predicts an even higher percentage by the end of 2004 -- means the Mat-Su has a veritable meth epidemic on its hands.

"If we were to double the size of this team and just work on meth, we'd still be working around the clock," Davis said. "My guys spend a lot of hours away from home, and even in the face of overwhelming odds and adversity, they come to work every day and go after the bad guys."

Davis describes meth as a cancer that is eating away at society. In terms of public health and safety, Davis and his team consider meth labs public enemy number one.

And there are more than ever these days. The proliferation of labs in the Valley may have something to do with Mat-Su being one of the fastest-growing communities in the state and the country; Davis says meth production and addiction are part of a larger, national problem.

"We're seeing a trend that started in the late '80s and early '90s, where meth would come into an area and explode," Davis said. "We're experiencing that now."

The proliferation of meth

Small-scale, clandestine labs are a relatively recent development in the history of methamphetamine. A Japanese pharmacologist is believed to have developed the drug in 1919, and during World War II, meth was reportedly given to both Allied and Axis troops to sustain them on long flights or marches.

In the 1950s, versions of meth called "pep pills" or "bennies" were sold in the U.S. for nonmedical purposes, and meth was marketed to treat obesity, narcolepsy and sinus inflammation.

Meth became regulated under the Controlled Substances Act of 1970, but in the late 1980s new

methods of cooking more potent versions of meth began to appear. These methods used ephedrine or pseudoephedrine as the precursor to meth, and made it possible for addicts to produce meth on their own -- if they didn't blow up their houses in the process.

Nowadays, there are three main methods used to produce the drug: The red phosphorus, birch and amalgam methods. The two methods used in Alaska are the red phosphorus method and the birch method.

The birch, also known as the "ammonia" or "Nazi" method, relies on a plentiful supply of anhydrous ammonia that is most commonly found in commercial freezers and agricultural applications in the Lower 48. Farmers have lost large stores of ammonia fertilizer to raids by meth cooks who use this method throughout the Midwest.

In Alaska, meth labs using the "Nazi" method would likely be found near shore-based fish-processing plants or fish-processing vessels.

In Alaska, most meth cooks use the red phosphorus method. According to the ADEC, wastes generated from the red phosphorus method include flammable extraction-process sludge, phosphine gas, iodine, hydriodic acid, hydrogen chloride gas, phosphoric acid and yellow or white phosphorus.

But none of these chemicals or gases are active ingredients in the final product.

Meth's only active ingredient is ephedrine, which is also the only active ingredient in many over-the-counter cold remedies; it's the caffeine in the tea bag. All the other chemicals used are there to bind up the ephedrine, convert and crystallize it into a usable product. Pure ephedrine is actually extremely dangerous; in its pure form, it is a controlled substance.

But converting ephedrine to meth produces volatile and toxic chemical waste. A 2003 University of Washington study of chemical exposures at meth labs found the chemical exposures of greatest concern were those produced using the red phosphorus method -- specifically those consisting of phosphine, iodine and hydrogen chloride.

The study highlighted iodine as a likely cause of mucus membrane and eye irritation reported at many lab seizures, and stated that the persistence of iodine in the environment of the cook, "is very important to the children that are present in clandestine laboratories as well as children who inadvertently become residents in a building previously used as a meth lab. Children crawling on contaminated carpet



may pick up high levels of iodine."

Aside from waste chemicals produced from cooking, meth contamination was found in every one of the 16 buildings tested in the study, all of which housed meth labs at some point.

"Even labs that had been busted several months prior to testing still had contamination levels of methamphetamine present on many surfaces within the building," the report stated.

In one controlled meth cook, researchers placed a teddy bear 12 inches from the cook area and afterward checked the bear's pH level and tested the bear's "fur" for meth contamination. The teddy bear had an extremely acidic pH of 1, and was highly contaminated with meth.

According to the study, "Children playing with such toys may be exposed to strong acids contained within the toy, causing severe burns to the skin and mucus membranes, and also be exposed to significant concentrations of methamphetamine -- particularly if the toy is placed in the mouth."

Fit for use?

In July 2003, House Bill 59 was signed into law. The bill directed the ADEC to adopt regulations "for the evaluation and cleanup of sites where methamphetamine was manufactured or stored."

HB 59

The bill was meant to address a relatively new problem: As the number of clandestine labs seized in Alaska continues to skyrocket, more landlords are faced with contaminated houses and apartments. Often the costs associated with properly testing and cleaning a former meth lab exceed the value of the property itself.

Although HB 59 requires property owners to clean up hazardous materials and provide test results that show contamination levels below ADEC limits before the property can be used again, it does not require third-party verification that a former lab is "fit for use."

While the ADEC recommends landlords hire a professional contractor to clean and test contaminated homes, the proposed regulations do not mandate it.

Some experts think this is a problem.

Mike Anderson, a toxicologist with Environmental Compliance Consultants, the company contracted to clean up meth labs statewide, thinks HB 59 is a good idea, but without requiring expert testing and cleaning

of a lab site, it leaves the door open for landlords to cheat -- and save thousands on cleanup costs.

"It's woefully inadequate to have people test their own homes," Anderson said. "It's inadequate to have them clean their own homes, and especially to have them test their own homes."

The ADEC regulations do require samples of former labs to be tested by professionals before the property can be certified "fit for use," but Anderson says it would be easy for a homeowner to cheat. By sending in a sample from a different home, or sending a clean piece of drywall in for lab analysis, a landlord could have a property certified "fit for use" without ever cleaning or testing it.

Although the ADEC has offered to provide property owners with the guidelines for cleaning a site and a list of laboratories that can test the site, there is no requirement for them to verify their work through a third party.

State Rep. Jim Holm, R-Fairbanks, and state Sen. Gretchen Guess, D-Anchorage, sponsored the bill and worked together to ensure passage of the new regulations.

Neither Holm nor Guess returned phone calls for this article, but minutes of a 2003 House Judiciary Committee discussion of the bill shed some light on why DEC officials and legislators made key changes to the bill that shifted responsibility for verification of lab cleanup from the state to the property owner.

The minutes state that Larry Dietrick, acting director of the Division of Spill Prevention and Response for the DEC, said the intent was to make the bill "self-implementing" in order to protect public health without developing a new government service. The minutes state, "The department won't review the work and the cleanup, but rather the owner will do so."

The minutes also state Dietrick said laboratory certification is quite costly.

The proposed ADEC regulations outline 29 substances that are potentially harmful wastes associated with meth labs, but advises against "unwarranted sampling," which may "place an excessive and pointless financial burden upon home owners to demonstrate 'fit for use' compliance."

Because homemade meth labs are such a recent phenomena, no one really knows the long-term effects of meth contamination.

Anderson thinks meth residue, which gets in and on

the walls of a lab site, can affect people who inhabit a house or apartment even after the lab itself has been removed. Because of the molecular structure of methamphetamine, it can be extremely difficult to get it off walls and out of carpet.

"This is a great problem," Anderson said. "People don't have the means to test for fumes, which adhere to drywall and paint. Meth comes out in a gas form, and it's so persistent and soluble, a wet rag just smears it across the wall. If you keep using the same rag, you're not cleaning it, you're just smearing it around."

Cutting off supply

For every meth lab law-enforcement officials seize, more crop up. This is because meth cooks teach as many as a dozen other tweakers how to make it.

Assistant District Attorney Paul Roetman, who handles narcotics cases for the Palmer DA's office, says he has three to four times as many meth cases this year as his predecessor had in 2003.

possible witness

The Palmer DA's office handled only 10 meth-related cases last year; this year Roetman has 40 meth cases, to date, out of a total caseload of 200.

Almost all of those meth cases involved two to four co-defendants.

"People can't do it alone," Roetman said. "But we're taking a hard line on meth, it's a huge problem."

The charge for manufacturing meth is second-degree misconduct involving a controlled substance -- a class-A felony. Five years is the presumptive term for class-A felonies, but a judge can reduce that to two and a half years.

Even though the normal term of sentence is five years, Sgt. Davis says he and his team often arrest the same people more than once.

"I'm starting to see guys we arrested in 2000," Davis said. "They get out and hit the street again and their names are popping up. They're at it again."

Davis thinks the key to keeping meth addicts off the streets is to impose stiffer penalties. Sentencing guidelines often don't allow a judge to hand down more than a five-year sentence, and after two years they're out on the street again.

☆

Investigator Mike Ingram, another Mat-Su Drug Team member, agrees. The only treatment for meth addicts is to get away from the scene completely.

"They need isolation, by which I mean they need to be incarcerated," Ingram said. "They need to get out of the cooking scene and get away from the people who cook it and get a rush off it."

But some say the costs associated with longer prison terms and heavier prosecution do little to curb the number of labs being set up.

One strategy used in Oklahoma was to cut off the supply of ephedrine and pseudoephedrine by allowing only licensed pharmacists to sell it. Although customers don't need a prescription, they do have to show photo identification and sign a registry when they purchase ephedrine or pseudoephedrine products.

Ephedrine, after all, is the key ingredient needed to make meth. By restricting the free flow of ephedrine over countertops at supermarkets and convenience stores, the ability to make meth would be greatly reduced. After Oklahoma's law had been in effect for just one month, the state was claiming a 25-percent decrease in lab busts for the year to date.

And there seems to be a correlation between meth production and ephedrine consumption. According to the federal Drug Enforcement Agency, consumption of raw pseudoephedrine by U.S. drug firms climbed 178 percent between 1990 and 2003, the very years that saw meth rise from obscurity to epidemic proportions.

In 1998, a year before meth use really exploded in the U.S., the amount of raw ephedrine sold nationwide was nine tons; the next year it rose to 14 tons.

State Rep. Carl Gatto, R-Palmer, says there hasn't been any discussion in the state Legislature about reclassifying ephedrine-based products as controlled substances, but he admits the meth problem is getting out of control and such restrictions might help.

"It's fairly inexpensive to restrict products, much more so than adding units and personnel to law enforcement," Gatto said. "All you have to do is interfere with one major ingredient and you can disrupt production."

ECC toxicologist Mike Anderson thinks the effect would be profound.

"It's a great idea to make cold tablets a schedule-five drug," Anderson said. "For the types of labs we have in Alaska, I think it would have a substantial effect. It would make [ephedrine] more difficult to get and easier to track."

For Gatto, much of the issue is a question of ever-increasing costs associated with the rising meth epidemic in Alaska.

"How much are the savings from overcrowded prisons and court fees and law enforcement compared to the costs of running a program that will reduce the need for these things?" Gatto said. "These are the types of things we have to look at in greater detail."

But for Anderson, something as simple as making a controlled substance controlled should be a first step in fighting meth production in Alaska.

"Getting meth out of ephedrine would be like extracting crack cocaine from old-fashioned Coca-Cola," Anderson said. "I guess no one ever thought people would be able to extract ephedrine from cold tablets and make methamphetamine."

Contact John Davidson at
john.davidson@frontiersman.com.

Medical waste permit passed

MAT-SU -- With construction of the new Valley Hospital facility progressing rapidly, the Mat-Su Borough Assembly passed an ordinance at its Nov. 16 meeting aimed at one type of business that often accompanies growth in the medical field.

Hospital 'topping off' party planned

MAT-SU -- Valley Hospital will mark off a milestone next Friday when it hosts a "topping off" ceremony to celebrate the highest beam being swung into place on its new hospital.

Methamphetamine waste out of control

JOHN DAVIDSON/Frontiersman reporter

Palmer Ice Arena solidifies its place

JOEL DAVIDSON/Frontiersman reporter

Illegal moose kills: An increasing problem in the Valley?

HOWARD DELO/For Frontiersman

New traffic light brings relief

JOEL DAVIDSON/Frontiersman reporter

Troopers to crack down during holidays

Frontiersman

Tuesday, November 23, 2004

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Spun out: Methamphetamine epidemic hits Mat-Su

By JOHN



Mike Anderson, a toxicologist who works for the ECC, examines chemical waste from a meth lab. Waste products from methamphetamine include highly toxic chemicals that must be disposed of by trained professionals. Photo courtesy of Environmental Compliance Consultants.

DAVIDSON/Frontiersman reporter

Imagine staying awake for weeks on end, mostly indoors, peering out curtained windows and closed blinds when the paranoia sets in. Imagine not eating, or eating very little, feeding your body a chemical soup of cleaning products and cold medicines cooked down to crystals in someone else's basement. Imagine five or six people huddled in a dark apartment for days and days, talking excitedly, cleaning, planning, taking things apart, pacing, itching, going nowhere,

wasting away.

Imagine you are addicted to methamphetamine.

For a growing number of Valley residents, meth addiction is anything but imaginary. As local police and Alaska State Troopers continue to discover more meth labs every year and arrest more Valley 20-somethings for meth production and possession



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than ever before, a meth epidemic in the Mat-Su is fast becoming a grim reality.

In recent years Mat-Su's problem with methamphetamine has become increasingly apparent. In 2003, nearly half the meth labs seized statewide were found in the Valley. This year, with 39 labs discovered already, the Mat-Su Drug Unit expects its share will be well over half the state's total.

"There's been an explosion in the number of labs we've found over the last five years," Sgt. Patrick Davis said. "The trend is climbing at an alarming rate."

Davis describes Mat-Su's meth underworld as a cancer -- a loose network of cells consisting of small groups scattered throughout the Valley. The groups make, use and sell methamphetamine, Davis said, but they only make and sell enough to sustain their addiction and perpetuate the process.

A "family" of tweakers

Jennifer first tried methamphetamine when she was 16. She began taking it occasionally, whenever she was hired to clean someone's house; she says it helped her work faster, it helped her make more money.

But meth gradually became a habit, and then, much more quickly, it became a way of life.

Over the last seven years Jennifer has used meth on and off, going through periods of heavy, prolonged use. She is 23 now and says she will never do meth again; she feels lucky to be alive.

Jennifer, who requested her last name not be used, is trying to regain custody of her son and set her life in order. She has been clean and sober since March 28, 2004 -- the day the state took her son away.

"When the troopers came and took him, everyone felt really bad and they wanted to do some [meth]," Jennifer said. "But that's when I realized I had to stop. I realized it had gone way too far."

Losing her 2-year-old son jolted Jennifer out of a meth underworld in which she had been deeply involved for seven months.

She describes being part of a group of "tweakers" who stayed in or near a certain meth cook's house in Anchorage. About a half-dozen people were there at any given time, sitting around with the windows and doors locked, the shades drawn tight, first cooking and then smoking or snorting meth.

was gone for two weeks.

Nowadays Jennifer has no contact with her former "meth family." She says she wants to leave behind that world forever, including the paranoid ways of thinking and behaving associated with it.

"To this day I can't just peek out the blinds, I have to open them up all the way," Jennifer said. "I don't want to do things the way I did them when I was tweaking. I know where I am in my life now and I know I'll never do [meth] again."

Paranoia is a near-constant state of mind for a chronic meth user. Jennifer said her friends would sometimes freak out and imagine there were cops in the woods with sniper rifles trained on them, or they would see a plane flying over the flats and think it was tracking them while they drove back to the Valley from Anchorage.

Some of her friends suffered from the delusional sensation of bugs crawling under their skin -- "crank bugs," they called them -- which causes people to scratch their skin raw. Jennifer, although she never felt crank bugs under her skin, would pick at her fingers until she had sores.

But Jennifer is in the process of turning her life around. For the past five months she has been in a recovery program. After completing her treatment, she will have a hearing about regaining custody of her son, who now lives with his grandmother.

Still, for Jennifer, there are occasional reminders of the meth life. She gets phone calls every now and then from friends who are still users. She says they don't make sense anymore; now that she is sober she can't really talk to them about anything, there is no common ground.

Four out of every 10 people Jennifer knows have "spun out," or used meth regularly in the past. Six out of 10 people she knows have tried it at least once.

Off the top of her head, Jennifer can think of at least eight meth labs in her corner of the Valley. Every one of those labs has about a dozen people connected to it, sometimes more. Jennifer thinks those numbers have been steadily growing since she first tried meth seven years ago, and first-time users are getting younger.

"I had a 13-year-old ask for it one time and I just about flipped out," Jennifer said. "But how could I tell him not to do it when I was doing it? You can't say you're not old enough, because no one's old enough."

Jones left the car in the middle of a road with the lights on, his driver's license on the driver's seat and Shane Rogers' wallet and identification on the passenger seat, on top of broken glass and blood.

During questioning, Jones seemed disoriented and said several times, "Shane is not dead." Jones told police the meth was making him hallucinate and he thought there was someone else in the car with them at the time.

At one point in the questioning, Jones wondered out loud why they were asking him questions, saying, "You were there, weren't you?"

In a telephone interview from Spring Creek Correctional Center, a maximum-security state prison in Seward where he is serving a 25-year sentence for second-degree murder, Jones set Rogers' death in a broader context.

Jones said he and Rogers had spent nearly two weeks cooking meth in a small room in Anchorage before they set out for Palmer that day. They were awake, on meth, the entire time.

"We were so high we should've been dead from overexposure to the chemicals," Jones said. "When you're in the same room where that stuff is being cooked, you have no idea how intense it is, it's just a cloud of gas, it attacks your body from every direction."

Jones said he was "tripping out," hallucinating and seeing things that day. He said Rogers was flicking red phosphorus at his eyes, he didn't know why, and things got out of control.

"I didn't realize I was so out of it," Jones said. "I didn't think I had that much in my system."

Although Jones says he had taken meth for 15 years, on and off, the weeks before the shooting when he and Rogers were cooking up meth in a small room together were the first time he had ever been around when meth was being cooked. Jones says they were not making a lot of meth, just enough to keep them high.

"The whole thing was crazy. My life is a living hell now," Jones said. "Meth was the only drug I ever really did, and the only reason I did it was because I worked a lot of hours driving trucks. I was an addict, and when you're an addict you find your sources and keep them close."

In Jones' case, his source was Rogers, and like the

Methamphetamine Lab Dangers to Children

Methamphetamine

Methamphetamine, or "Meth", is a clandestinely manufactured, long-lasting nervous system stimulant. It is the product of a witch's brew of common household cleaners, flammable solvents, corrosive acids and over-the-counter cold medicines. Methamphetamine is also known locally as meth, speed, crystal, glass, crank, go fast, or ice. Methamphetamine is an extremely destructive and debilitating addiction.

Toxic Chemicals

Toxic hazardous waste from meth production is often left in the house or dumped in the backyard where kids play. Every 1 lb of meth made results in 7 lbs of toxic chemical waste. Some of these poisonous chemicals include acids, solvents, drain cleaners, camping fuels and carcinogen items. Meth-abusing parents often use the same household glassware to cook meth and dinner.

Fire and Explosions

Cooking methamphetamine is a dangerous proposition due to the extreme risk of fires, explosions, and exposure to toxic fumes. Current local lab statistics reveal that 50% of all lab fires had children present at or near the incident with 18% of suspects reported injured. Seeking care for children injured in a lab fire may be delayed or denied for fear of arrest.

Child Neglect and Sexual Abuse

In Riverside County, 70% of child abuse cases are related to Meth. Due to their parents' drug addiction, these young children are regularly neglected, and left unattended for long periods of time. Meth abuse in the home increases parent aggression, sexual drive, and can lead to violent psychotic behaviors, which are often perpetrated on their own children by the very persons who are supposed to protect them. Meth is probably the single greatest cause for increases in child sexual abuse cases.

Horrendous Living Conditions

Meth abuse forces once-caring parents to forgo personal and family hygiene. This creates unimaginable filth and unhealthy living conditions for the children. Meth induced paranoia often leads the parents to booby-trap the home and leave firearms unsecured to the detriments of small children. The parents' self-induced paranoia and child neglect also keep the children from attending school regularly.

Medical Complications

Lack of pediatric medical and dental care is commonplace in homes where meth is being produced or used. Preventable prenatal complications include premature birth, congenital deformities, and drug addiction. Children also face learning disabilities such as Language Delay Development, and Attention Deficit Disorder (ADD). Children found at lab sites also show signs of liver damage, malnutrition, dehydration, and breathing problems which can cause further medical complications.

"In Riverside County 70% of child abuse cases are Methamphetamine related."

Minutes from House Judiciary
Standing Committee
2/9/05

Testimony of

Dr. Cathy Baldwin-Johnson
Providence Matanuska Health Care

and

Detective Ed Bryant
Anchorage Police Department

HB 99 - CRIMES INVOLVING CONTROLLED SUBSTANCES

1:57:58 PM

CHAIR McGUIRE announced that the final order of business would be HOUSE BILL NO. 99, "An Act relating to controlled substances regarding the crimes of manslaughter, endangering the welfare of

a child, and misconduct involving a controlled substance; and providing for an effective date."

1:58:13 PM

CATHY BALDWIN-JOHNSON, M.D., relayed that she is a family physician in Wasilla, works for Providence Matanuska Health Care, and is the volunteer medical director for The Children's Place, a children's advocacy center in the "valley." She said that her interest in and concerns about methamphetamine are related to the impact it has on children. The number of methamphetamine laboratories ("labs") is rapidly increasing in Alaska, especially in the Matanuska-Susitna ("Mat-Su") valley. When people manufacture methamphetamine in their homes, there are many hazards and risks with the parent chemicals that are being used, with the manufacturing process itself, and with the final drug product; additionally, it is very common that children are in these homes.

DR. BALDWIN-JOHNSON said that it is known that substance abuse either causes or exacerbates at least 7-10 case of child abuse and neglect [yearly] and, with methamphetamine in particular, there are significant [risks] for children, including injuries from the chemicals used in manufacturing and from the needles which surrounding adults use to inject themselves, and the diversion of resources because parents are spending all of their time, energy, and money on methamphetamine and the manufacture of methamphetamine instead of on buying food and clothing, and otherwise providing for their children's needs. There are problems with attachment to their children if the parents are spending all their time indulging in substance abuse, there are environmental dangers, and children are exposed to criminal

behavior and to a lot of strange people coming in and out of the home to buy methamphetamine.

DR. BALDWIN-JOHNSON said that methamphetamine use is associated with escalated levels of violence, with pornography, and with sexual aggression, none of which constitute a healthy environment for children. Some specific risks to children include organ damage - studies in other state have shown that these children suffer from kidney, liver, spleen, and brain damage, the latter of which sometimes results in permanent aggressive behavior - and the inability of their parents to be good parents because they also suffer from brain damage. When a parent use methamphetamine during pregnancy, it presents a significant risk to the unborn child, including death, birth defects, and irreversible brain damage; the latter effect is measurable once the child hits grade school.

DR. BALDWIN-JOHNSON said that a 2003 youth risk behavior survey showed that 6 percent of Alaskan high school students admitted to using methamphetamine at least once. High school is a time when adolescent brains are undergoing a lot of change and growth, so it's a really vulnerable time for these children to get hooked on methamphetamine. Nationally, somewhere between 30-50 percent of home methamphetamine labs have children living in them, and in the Mat-Su valley, the unofficial count, from "our drug team there," is significantly higher, perhaps closer to 75 percent. A really frightening statistic from the Lower 48 shows that 80 percent of children taken out of an active methamphetamine lab will test positive for methamphetamine if a urine drug screen is performed within two hours. This is not because two-year-olds, for example, are using methamphetamine; instead, it's because methamphetamine is in their environment:

it's on the floors where they crawl, it's on the food that they eat, it's in the refrigerator right next to beverage containers from which they drink, it's in the air that they breath.

2:03:01 PM

DR. BALDWIN-JOHNSON pointed out that in addition to the aforementioned exposure risks, children are also at risk from fires and explosions because such are common in methamphetamine labs due to the dangers involved in the manufacturing process. Also, children are often neglected and abused by their parents and the various people who are coming in and out of their homes. Children are more vulnerable to the environmental hazards of methamphetamine because, in relation to body weight, they have more skin surface, they breath more air, they eat more food, and they drink more water than adults; also, children's organ systems are immature and thus more easily damaged by exposure to methamphetamine and the parent chemicals used in its manufacture. She noted that a national organization has looked at model state drug laws and has found that with regard to methamphetamine and the children exposed to it, Alaska has lenient drug laws compared to other western states. In conclusion, she said she is absolutely in favor of anything that will help keep children safe from what she surmised to be an increasing problem in Alaska - [methamphetamine use and manufacture].

2:04:20 PM

REPRESENTATIVE COGHILL asked Dr. Baldwin-Johnson whether H3 99 is significantly different from laws in other states, and

whether she has any further recommendations for proposed changes.

DR. BALDWIN-JOHNSON replied that she would like to see significantly stiffer penalties for people who manufacture methamphetamine around children, and would like to see such behavior classified as a type of child abuse and have it be escalated to a higher level of child endangerment offense. She offered her understanding that the bill provides for a class C felony if one is convicted of manufacturing methamphetamine in a building inhabited by children.

REPRESENTATIVE COGHILL referred to the portion of the bill which provides that a person could be charged with manslaughter if someone dies as a result of the person manufacturing or delivering a controlled substance in violation of AS 11.71.

DR. BALDWIN-JOHNSON opined that Alaska law needs something [similar] for children who are actually in homes where methamphetamine is being manufactured, not just for those that die.

REPRESENTATIVE COGHILL mentioned that he is seeking input on these issues for a bill he is working on.

2:06:16 PM

ED BRYANT, Detective, Anchorage Police Department (APD), Municipality of Anchorage (MOA), relayed that he has been assigned to the drug unit for about nine years, and so has seen the rise in methamphetamine production. He said he would echo Dr. Baldwin-Johnson's comments regarding the damage to children

caused by exposure to methamphetamine and its manufacture. As currently proposed, the bill is certainly needed for the protection of children and the general public. He offered the following example:

[On] January 19 [2005], we took down a methamphetamine lab in Anchorage in a multiunit apartment building. Even being outside the building there was evidence of the methamphetamine production because the acid gases that were produced in the lab came out of the vent and actually discolored and damaged the exterior of home. The inside of the home was a light yellow color, all of the walls were [a] light yellow color, except in the very corners where the iodine and other chemical fumes wouldn't settle because of the dead air space in the very corners. Inside this home was an eighteen-month-old child.

MR. BRYANT noted that currently, if someone is [19 years of age or older], AS 11.71.010 provides that it is an unclassified felony for delivering a schedule IA or schedule IIA controlled substance to a person, under the age of 19, who is three or more years younger. The bill, however, addresses circumstances involving people - namely children inside these labs - who don't have the option of refraining from exposure to these substances. Why, he asked, would the penalty for manufacturing or attempting to manufacture methamphetamine in a residence where there are children be any less severe than that provided for in AS 11.71.010.

MR. BRYANT noted that there has been a lot of research on the dangers of manufacturing methamphetamine, including a study done

by the National Jewish Medical and Research Center in Colorado in which methamphetamine "books" were carried out in very controlled circumstances in 16 different locations, including residences, to find out what the residual amounts were of both the controlled substances and the accompanying toxic substances used in their production. That study showed conclusively that methamphetamine and iodine residue can be found throughout the house in which methamphetamine is manufactured, and that the other accompanying toxic chemicals, which are very volatile, can generally be found in the location where the processing occurs; thus children in such locations are being exposed to methamphetamine.

MR. BRYANT noted that one of the reasons for methamphetamine's prevalent use is that it makes people feel really, really good. This is because it causes the transmitters for two very important brain chemicals - dopamine and serotonin - to fire all at once, resulting in an extreme amount of euphoria. Unfortunately, it also results in the destruction of both the transmitters and receptors of these chemicals in the brain; this is part of the brain damage spoken of earlier. Those two chemicals are what allow people to experience everyday pleasures and regulate moods; they are essentially what keep humans within the bounds of societal norms with regard to non-aggressive behavior and being able to cope with and solve different problems. The people who use methamphetamine or are subjected to it, as in the case of children living where methamphetamine is being manufactured, will suffer this brain damage.

MR. BRYANT, in conclusion, relayed that he is very much in support of HB 99, and is very passionate about this issue

because he has seen the effects of methamphetamine use and exposure.

2:12:00 PM

REPRESENTATIVE GRUENBERG referred to Section 5, paragraph (5), and asked why the language stipulates, "methamphetamine in an organic solution".

MR. BRYANT said that such a solution is a product of the reaction and results from the next to the last step in manufacturing; he noted that the phrase used in the bill is inclusive.

REPRESENTATIVE GRUENBERG mentioned that AS 11.81.900(b)(22) defines "dwelling" as, "dwelling" means a building that is designed for use or is used as a person's permanent or temporary home or place of lodging". He asked whether the language currently located on page 3, lines 3-4, which says in part, "with reckless disregard that the building is a dwelling for one or more children", should be changed to say the building is a "current dwelling".

CHAIR McGUIRE pointed out that the language says, "is a dwelling", and suggested that that phrase will be interpreted to mean, "current dwelling." She acknowledged, however, that if there are concerns regarding this issue, the language could be changed to say, "is currently a dwelling".

2:17:09 PM

REPRESENTATIVE ANDERSON - noting that lines 22-26 of page 2 address the issue of apartment complexes and other buildings consisting of separate units - indicated that if one apartment in an apartment complex is being used as a methamphetamine lab, even though there may not be children residing in that particular apartment, the hazardous effects and risks are present for everyone living in the rest of the building. He also indicated that he is in favor of strict penalties regardless of whether the building or a unit in the building is currently being used as a dwelling for children.

MR. BRYANT concurred, and offered an example of an explosion occurring in methamphetamine lab located in one unit of a six-unit apartment complex - the explosion was so severe that it resulted in the building being blown off of its foundation. So there is not only a risk from the toxins that can be found in a methamphetamine lab, there is also a risk from explosion and fire. For this reason, he remarked, he supports the bill's current definition of "building," which is located on page 2, lines 22-26.

REPRESENTATIVE ANDERSON agreed, characterizing that definition as important, and noting that it also addresses office buildings and other buildings that might rent separate units.

MR. BRYANT mentioned that smaller daycare centers are sometimes located in strip malls, where it would not be uncommon for someone to try to conceal a methamphetamine lab. Although discussion thus far has been limited to methamphetamine labs, he remarked, there are other types of labs that are just as dangerous if not more so.

Chemical Exposures Associated with Clandestine Methamphetamine Laboratories

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Acknowledgements:

This project was sponsored, in part, by a grant from the Colorado Department of Public Safety and the United States Department of Justice through the Colorado Methamphetamine Program. In addition, the National Institute for Occupational Safety and Health provided a substantial amount of the laboratory analysis. The North Metro Task Force allowed us to sample at a number of their clandestine laboratory investigations and assisted in the Colorado Springs Police Department Sampling and the controlled manufacturing sampling. The Tri-County Health Department provided personnel and assistance during the sampling efforts and the Denver Police Department and Trinidad Police Department allowed us to conduct sampling at suspected methamphetamine laboratories within their jurisdictions. The Colorado Springs Police Department allowed us to conduct sampling during a controlled methamphetamine manufacture in their crime laboratory enabling us to test our sampling methodologies and to determine maximum chemical concentrations. Assistance was also provided by the Colorado Alliance for Drug Endangered Children and many of the emergency service agencies (police, fire, and EMS) in the Denver Metropolitan Area. The project personnel also wish to thank Lt. Lori Moriarty, Sgt. Jim Gerhardt, and Lynn Riemer for their help throughout the study.

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Introduction:

The State of Colorado as well as the nation face an unprecedented epidemic of clandestine methamphetamine drug manufacturing. Seizures of methamphetamine drug laboratories continue to rise putting police and fire first responders at risk for a variety of hazards. The number of seizures in Colorado has risen dramatically from 31 laboratories in 1998 to 455 laboratories in 2001. First responders and susceptible third parties, such as children, are at risk for exposures to the chemical hazards and the fire, explosion, and safety hazards inherent with clandestine manufacture of methamphetamine.

Unfortunately, very little is known regarding the specific exposure hazards faced by first responders and bystanders associated with illegal methamphetamine manufacture and lab seizure. As a result there is very poor information on which to establish appropriate medical treatment plans and healthcare providers are forced to provide generic, often expensive, and probably to some extent unnecessary medical testing.

The use of personal protective equipment (PPE) by emergency services and law enforcement personnel also vary widely by jurisdiction due to the lack of information regarding chemical exposures at the sites and the necessity for protection. Some jurisdictions use self-contained breathing apparatus and chemical-protective suits while other neighboring jurisdictions use no respiratory protection or chemical-protective suits at all. Other agencies switch from self-contained breathing apparatus to air-purifying respirators after the initial assessment while other agencies remain in the highest levels of protection. These variations are due to a lack of information from scientifically-based studies, relating to exposure risks while conducting these operations.

Even though many agencies use some form of PPE, there are increasing reports of emergency service and law enforcement personnel being injured while conducting investigations at clandestine methamphetamine laboratories. The Centers for Disease Control reported 59 events associated with methamphetamine labs where emergency services personnel were injured during the investigation between 1996 and 1999. The number of injured responders was 155 with most reporting respiratory irritation.⁽¹⁾

Studies conducted by Dr. Jefferey Burgess^(2,3) at the University of Washington investigated the symptoms reported by emergency responders during illegal methamphetamine laboratory seizures. Responders predominately reported general irritant symptoms, but least one case of phosphine gas exposure was reported. In a questionnaire study of emergency responders, 53.8% reported at least one illness while conducting laboratory seizures with most symptoms appearing to be related to chemical exposure at the laboratory site. The primary symptoms reported were headache and mucous membrane irritation.

Although the predominant symptoms were irritant symptoms, a number of responders were found to have an accelerated drop in one second forced expiratory volume (FEV₁) that may have been related to work in drug laboratories. The majority of symptoms reported by officers occurred during the processing phase of the laboratory seizures but

this phase was also the phase in which the most time was spent in the laboratory area. The use of respiratory protection did seem to reduce the incidence of symptoms while investigating these laboratories. There has also been anecdotal evidence of exposure to methamphetamine causing permanent lung damage but the actual cases have not been reported in the literature.

This increase in illegal laboratory seizures and reported health effects has resulted in health concerns by the emergency services and law enforcement personnel responding to these incidents. Typical concerns expressed by first responders regarding exposures at clandestine methamphetamine laboratory seizures include:

- Was I exposed to something that can harm me?
- Could my exposures cause me health concerns?
- What personal protective equipment should I have been wearing during the lab seizure?
- When was it safe for me to remove my personal protective equipment?

Although the chemicals used in the production of methamphetamine are well known, first responders do not know which of these chemicals by themselves or in combination may be harmful and what routes of exposure present the most severe risks. Industrial hygienists commonly approach such problems by quantifying the actual exposures using air sampling, modeling, and in some cases teamed with occupational environmental medical specialists using biological markers (chemical traces in urine or blood, for example) to determine what the exposure has been. Major exposure assessment issues include individual chemical characteristics as well as potentially complex interactions of chemicals that might result in unusual and potentially very toxic mixtures.

This project was designed to determine the potential chemical exposures to law enforcement and emergency services personnel responding to clandestine methamphetamine laboratory seizures. The results of the project would be utilized to inform decisions regarding PPE, containment, and medical treatment of individuals involved with these responses.

The six goals of the study were to:

- Determine the primary chemical exposures of concern at clandestine drug laboratory seizures for both the responders and the children present at the laboratory site.
- Determine which phase of the response poses the highest risk for responders, what chemicals responders are exposed to, and to what concentrations they are exposed.
- Investigate the relationship between symptoms reported by the responders and the actual exposures measured at the site.

- Investigate how symptoms observed or reported in children that are present in clandestine drug laboratories, relate to the chemical exposures within the laboratory.
- Determine the appropriate types of personal protective equipment required for the various phases of drug lab seizures based on exposure assessments.
- Determine the appropriate components of a medical monitoring program for first responders based on exposure assessments at illegal drug lab sites.

Project Methodology:

Laboratory Methods

To perform the exposure-monitoring component of this project, it was necessary to:

1. Obtain the samples quickly since there would be a limited time for sampling.
2. Hold samples without losing information until they could be shipped to the laboratory for analysis.
3. Obtain enough sample so that the laboratory limit of detection for the chemicals of interest were lower than the levels of concern for that chemical.
4. Collect the samples with a minimum of personnel effort.

Based on these criteria, air samples were collected for general hydrocarbons, phosphine, inorganic acids, iodine, and metals. In addition, surface samples were collected for methamphetamine and its precursors. The samples for general hydrocarbons were collected using two different approaches. The first approach involved the use of a summa canister, which is a stainless steel evacuated cylinder that can be used to obtain a volume of air immediately from the area in question. The canister was taken into the clandestine lab area and the valve opened, allowing the tank to fill with the air present within the suspected laboratory. After the tank had filled, the valve was shut and the canister sent to Data Chem Laboratories in Salt Lake City for analysis. The samples were analyzed using a gas chromatograph combined with a mass spectrometer (GC/MS) by the United States Environmental Protection Agency (EPA) Method T0-15.

The second general hydrocarbon sampling method was conducted using a carbotrap tubes supplied by Data Chem Laboratories. Thermal desorption tubes consist of multi-layer charcoal sorbents through which a known volume of air is drawn using a flow-calibrated personal sampling pump. These samples were collected at a rate of approximately 50 cubic centimeters (cc) per minute. After sampling, the tubes were packaged in air-tight containers and shipped to Data Chem Laboratories for analysis. At Data Chem, the samples were thermally desorbed and analyzed using a GC/MS according to the EPA method T0-17.

Initial phosphine samples were collected on specially treated silica gel tubes using a personal sampling pump that had been calibrated to an approximate flow rate of 100 cc

per minute. The sample tubes were capped and sent to Data Chem Laboratories for analysis using the NIOSH Manual of Analytical Methods (NMAM) 6002. This analysis method uses a manual visible spectrophotometry method of analysis. Phosphine samples obtained during the hotel cook were collected using a 37 mm filter cassette containing a glass fiber filter and a mercuric chloride-treated filter. These samples were capped and sent to Data Chem Laboratories for analysis using OSHA Method 1003 which uses an ICP-AES analysis method.

Samples were collected for airborne iodine using standard charcoal tubes combined with a personal sampling pump calibrated to a flow rate of approximately 1.0 liters per minute (lpm). After sampling, these tubes were capped and sent to Data Chem Laboratories where they were analyzed by ion chromatography using NMAM 6005.

The inorganic acids samples were collected using a silica gel tube and a personal sampling pump calibrated to an approximate flow rate of 200 cc per minute. After sampling, the tubes were capped and sent to Data Chem Laboratories for ion chromatography analysis using NMAM 7903.

Samples for metals were collected using a 0.8 um, cellulose ester membrane filter and a personal sampling pump calibrated to a flow of approximately 2.0 lpm. After sampling, the filters were packaged and sent to Data Chem Laboratories where they were analyzed by inductively coupled argon plasma using NMAM 7300.

Wipe samples for methamphetamine were collected by wiping a specific area with a sterile four inch by four inch (4x4) gauze wipe. Prior to entering the suspected laboratory, the 4x4 wipes were individually placed into plastic centrifuge tubes. After entering the laboratory, the wipes were taken out of the tubes and wetted with several milliliters of isopropanol prior to sampling. An attempt was made to minimize cross contamination by using separate pairs of gloves or by wiping the gloves with isopropanol between sampling efforts. After sampling, the wipes were put back into the centrifuge tubes and sent to Data Chem Laboratories for analysis. The samples were analyzed using a NIOSH method under development at the laboratory, which enabled the analysis of the samples using GC/MS.

Sampling Scenarios

Four sampling scenarios were conducted during the investigation. An initial sampling scenario was conducted at the Colorado Springs Police Laboratory in order to determine the potential levels of chemicals that might be encountered in the field and to determine the effectiveness of the sampling methodology. In this instance, three different methods of methamphetamine manufacture were conducted using the facilities and laboratory hoods present in the police laboratory. Two variations of the red phosphorous method and one hypo-phosphorous cook were conducted. In each case, the sampling devices were installed into the hood where the cook was taking place and positioned so that the highest concentrations of chemicals would be collected.

For each type of cook, samples were taken for inorganic acids, phosphine, metals, and iodine. Summa canisters and thermal desorption tubes for organics were taken in one hood at the end of the cook when the methamphetamine was being dissolved in solvent. Wipe samples for methamphetamine were taken in all of the hoods prior to performing the cooks and after conducting the cooks in order to see if methamphetamine was released during the cook. It was expected that prior contamination did exist since methamphetamine had been manufactured in the laboratory prior to this event.

The second sampling scenario occurred during the investigation of individual clandestine methamphetamine laboratories by law enforcement officers. In these situations sample collection devices were brought into the suspected laboratory immediately after entry by law enforcement officials. Initially samples were taken for organics using both the summa canisters and the thermal desorption tubes. After the first several labs, the use of the summa canister was eliminated since the thermal desorption tubes provided adequate information. Initially samples for airborne iodine, phosphine, inorganic acids, and metals were collected at all of the sites. As the investigation progressed, sampling for elements (metals) was discontinued because sampling results were consistently below the limits of detection for the method. Later, sampling focused on acids, iodine, and phosphine in those laboratories that appeared to have been in operation in the recent past. Because environmental surface samples consistently showed positive results, wipe samples were always collected in each suspected laboratory.

The third sampling scenario involved controlled methamphetamine manufacture conducted in an abandoned house scheduled to be burned by the local fire department. This scenario was intended to simulate exposures during illegal methamphetamine manufacture in a residence. Two areas of the house were designated in which to conduct cooks. In one area, a red phosphorous method was utilized and in the other a hypophosphorous method was utilized. Samples were collected both in the area of the cook and at a distance from the cook in order to determine the movement of chemical exposures. Samples for phosphine, inorganic acids, iodine, and organics were taken at all sampling locations. In addition, real-time data for hydrochloric acid and phosphine were also obtained using an ITX Multi-Gas Monitor (Industrial Scientific Corporation) This meter provides real-time monitoring and data logging that can be used to determine chemical concentrations during the cook. Methamphetamine wipe samples were collected from specific locations that were measured to be 100 square centimeters. The samples were taken at three intervals; prior to starting the cooks, after the cooks, and after the salting out process.

The fourth scenario was conducted in a three-story hotel that was being demolished. This scenario was again intended to simulate exposures during an illegal methamphetamine cook using the red phosphorous method of manufacture. The cook was conducted in one room of the hotel and samples were collected in that room, in the bathroom, in the hallway, and in an adjacent room. The sampling methodologies utilized were the same as those used in the house during the third scenario with the exception of the phosphine sampling and the use of a real-time methamphetamine sampler called a Cozart RapiScan (manufactured by Dominion Diagnostics) that was employed during the cook.

Questionnaires

We initially planned to give questionnaires to all of the individuals present at each of the clandestine laboratory investigations as well as at training classes put on by the North Metro Task Force. The two questionnaires were developed and submitted to the National Jewish Institutional Review Board for approval. This approval was obtained but not until a large number of the clandestine laboratories had already been investigated. For this reason, the questionnaires were only given to participants at North Metro Task Force training sessions. They were handed out by North Metro staff and self-administered by participants in the training class. The questionnaires were collected at the end of the class and returned to National Jewish Staff.

Data Collection

All of the data collected during the study was put into Microsoft Excel Spread Sheets. The spread sheets and the raw data were kept on the computer of the Principal Investigator.

Project Results:

This study was initiated on January 1, 2003 and the research team was ready to respond to any methamphetamine labs by the second week of January, 2003. We purchased all necessary respiratory protection, personal protective equipment, sampling equipment, and established the necessary sampling protocols. The team collected samples at the Colorado Springs Police Laboratory where methamphetamine was manufactured under controlled conditions (laboratory hoods) to evaluate potential exposures. The team responded to a total of 16 suspected clandestine methamphetamine laboratories between January 14, 2003 and May 17, 2003. Samples were also collected at two controlled methamphetamine cooks conducted in an abandoned house prior to being destroyed by the Fire Department and at a hotel prior to demolition.

Current Occupational Health Criteria for Sampled Substances

The concentration results for the three primary chemicals for which we sampled were compared to the following standards for occupational exposures:

Compound	OSHA PEL	ACGIH TLV	NIOSH ¹ REL
Iodine	Ceiling 1.0 mg/m ³	Ceiling 1.0 mg/m ³	Ceiling 1.0 mg/m ³
Phosphine	0.4 mg/m ³	0.4 mg/m ³	0.4 mg/m ³
Hydrogen Chloride	Ceiling 7.0 mg/m ³	STEL Ceiling 3.0 mg/m ³	Ceiling 7.0 mg/m ³

OSHA PEL – Occupational Safety and Health Admin. Permissible Exposure Level

ACGIH TLV – American Conference of Governmental Industrial Hygienists Threshold Limit Value

NIOSH REL – National Institute of Safety and Occupational Health Recommended Exposure Level
STEL – Short Term Exposure Level

Clandestine Laboratories Sampled

The first sampling effort at a clandestine laboratory was conducted on January 14, 2003 at a local hotel in Westminster, CO. This laboratory was in a hotel room that had likely been used for several days. Chemicals were present but no cook was in progress during our sampling. The drug manufacturers were out of the room at the time of law enforcement entry.

The second sampling effort was conducted on January 15, 2003 in a private residence. According to law enforcement officers, this home had been used as a drug lab until December 2002. The Health Department had ordered the home vacated and the residence had been closed for some time.

A third sampling effort was conducted on January 16, 2003 in an apartment. This apartment had been identified, by law enforcement officers, as a methamphetamine laboratory and was reportedly remediated.

The fourth sampling effort was conducted on January 17, 2003 in a mobile home. This facility also had some chemicals but the laboratory was not in operation at the time of law enforcement entry.

The fifth sampling effort was conducted at a residence where the methamphetamine laboratory was in a bedroom on the 2nd floor. An area in the bedroom had been used for cooking as evidenced by glassware and stains in the area.

The sixth and seventh sampling efforts were conducted at a trailer park and a motel room. The two laboratories were related since a cook had apparently been conducted at the motel room and then the chemicals moved to the trailer park. The cooking area at the motel had significant iodine staining and it was reported, by law enforcement officers, that there had been an associated explosion.

The eighth sampling effort was conducted in another trailer park. The laboratory was located in the kitchen where a number of chemicals were found as well as significant iodine staining. It was reported that the cook had occurred on the Friday before the Monday raid.

The ninth sampling effort was conducted in a house. There was no evidence of cooking at this house but chemicals and glassware were present. It appeared that the house may have been entered prior to the cook actually occurring.

The tenth site that was sampled was a home. It appeared that a cook had occurred in this home since there were many coffee filters with residues that appeared to be related to

methamphetamine manufacture at the location. Upon entry, there was a smoky haze inside of the house but no iodine stains were observed.

Suspected laboratory number twelve was located in a home. Iodine stains and burns were evident in the basement bedroom of the home. Iodine staining was not visible on the walls or ceiling, making it difficult to determine if the home was used to cook methamphetamine. This home may have been used as a small day care facility for family members.

The thirteenth laboratory sampling effort was located in a trailer. Glassware and chemicals to manufacture methamphetamine, and drug paraphernalia were discovered on scene, but no signs of iodine stains or a cook were visible.

The fourteenth site was a trailer. Although no visible smoke or discernable smell was present, officers reported having headaches after removing the suspects from the home. Additionally, officers did not wear any personal protective equipment while in the trailer. Although chemicals to manufacture methamphetamine and drug paraphernalia were present, it is unclear if methamphetamine was manufactured in this residence.

Laboratory number fifteen was located in a residence. This laboratory was unique in this study because the lab was discovered after firefighters extinguished a fire in the residence. Chemicals and glassware used to manufacture methamphetamine were discovered throughout the home.

The sixteenth laboratory was a vehicle that was acquired by the Trinidad Police Department. Officers frequently reported headaches and rashes on the arms and forehead after riding in the vehicle.

In general, none of the suspected clandestine methamphetamine laboratories sampled were active laboratories at the time of sampling. In no case did we enter a structure where chemical agents used for the illegal manufacture of methamphetamine were actually being used at the time of entry. In fact, in most cases there was no evidence that a cook had taken place within the last few hours. This was not totally unexpected since some effort is made by North Metro Task Force officials to conduct law enforcement operations at a time where exposure to chemicals is minimized. However, due to the status of the suspected laboratories during our sampling effort, the chemical exposure results that we have obtained from these laboratories should be considered to be the minimum exposures expected during these operations. Chemical exposures at an operational laboratory would be expected to be much higher as our results from the Colorado Springs Police Department and the controlled cooks have shown.

Colorado Springs Police Department Results:

The sampling scenario conducted at the Colorado Springs Police Department was designed to test the sampling methodologies that had been developed and to determine the order of magnitude of the maximum exposures expected at an operating methamphetamine laboratory. Samples were taken for phosphine, metals, inorganic acids, iodine, organic compounds and methamphetamine.

This sampling was conducted on January 10, 2003 in the criminology laboratory located at the police station. Three methamphetamine cooks were conducted at the facility using a street variation of the Red "P" Method, a DEA laboratory variation of the Red "P" Method, and a hypophosphorous acid method. All of these cooks were conducted in laboratory hoods and samples were taken so as to obtain worst-case samples. Since the hoods were in operation for much of the time during sampling, the results may not be actual worst-case for the process but, rather worst-case under those conditions.

Inorganic Acid Results

The acid scan that was conducted determined the presence of hydrofluoric acid, hydrochloric acid, hydrobromic acid, phosphoric acid, nitric acid, and sulfuric acid. One concern regarding the methodology used was that the blanks submitted with the actual samples were found to contain low levels of nitric and sulfuric acids. In addition, all of the acids, except hydrobromic, for which we tested were found to be present at the Colorado Springs cooks, even though the acids were not utilized in the cooking process and even though they would not be expected to be present. This may not be a surprise since these tests were conducted in laboratory hoods that have likely been used to contain acids in past experiments. During this cook hydrofluoric acid was found in high concentrations in the laboratory variation of the Red "P" Method but so was phosphoric, nitric, and sulfuric. That particular sample appears to have been contaminated either by acids in the hood or as a background artifact in the silica gel tube. In addition, no phosphoric acid was found in the hypophosphorous acid method, which was somewhat of a surprise.

The primary acid concentrations found at the Colorado Springs Police Department were as follows:

<i>Inorganic Acid Results from the Colorado Springs Police Dept. Methamphetamine Cook</i>			
Manufacturing Process	Sulfuric (mg/m³)	Hydrochloric (mg/m³)	Phosphoric (mg/m³)
Street method hood cook	0.02	16.9	ND
Street method hood extraction	ND	ND	ND
Lab Method	0.07	4.5	ND
Hypophosphorous method	0.04	0.12	ND
Street Method salting out	0.04	2.36	ND
Blank	ND	ND	ND
Blank	0.021	ND	ND

The highest acid levels were found during the Street Red "P" Cook. The primary acid found was hydrochloric acid. This is no surprise since hydrochloric acid is used during the salting out portion of the process. It was somewhat of a surprise that hydrochloric acid was found during the cooking phase of both the red phosphorous cook and the hypophosphorous cook. It is believed that the production of hydrochloric acid was likely due to the use of ephedrine chloride for the cook.

The salting out phase was found to generate high levels of hydrogen chloride even though the use of the hydrogen chloride was much more controlled than it would have been in a home laboratory. The current American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Level Value (TLV) for hydrochloric acid is approximately 3.0 mg/m^3 and is a ceiling value meaning that it can't be exceeded for any amount of time. Levels measured at the controlled cooks ranged from slightly below the current allowable level to approximately five times the allowable level. During an actual cook in a house where poor ventilation is present and generation methods are not as controlled, it is likely that acid levels will be significantly higher than those observed in this experiment.

Phosphine Sampling Results

The results of the samples taken for phosphine were as follows:

<i>Phosphine Samples Collected at the Colorado Springs Police Dept. Cooks</i>	
Manufacturing Process	Phosphine (ug/m^3)
Street Cook	433.6
Street Extraction	489.4
Lab Cook	4842
Hypophosphorous Cook	ND
Blank	170

The phosphine concentrations ranged from a non-detect in the hypophosphorous cook to 4842 ug/m^3 during the laboratory red phosphorous cook. However, the blank for the laboratory samples was found to contain 170 ug/m^3 suggesting that actual phosphine levels were approximately 200 ug/m^3 lower than the levels reported by the laboratory. The ACGIH TLV for phosphine is approximately 420 ug/m^3 which is approximately what the laboratory is reporting in the samples, however the samples may have been at $\frac{1}{2}$ of that concentration.

Iodine Sampling Results

The results of the iodine samples taken at the Colorado Springs Police Department were as follows:

<i>Iodine Sampling Results at the Colorado Springs P.D. Laboratory</i>	
Sample Location	Iodine (mg/m ³)
Street method hood	2.3
Lab method hood	37

The levels of iodine found in the air ranged from 2.3 mg/m³ to 37 mg/m³ during the actual cooks. The current TLV for iodine is a ceiling value of 1 mg/m³ indicating that the levels of iodine found in the controlled cook would have exceeded the current standards by almost an order of magnitude. This was not a surprise since the color of the gases coming off of the cook suggested that iodine was being released at high levels.



Figure 1: Iodine staining on condenser tube in laboratory hood.

Total Hydrocarbon Results

It was expected that the GC/MS results from this sampling effort would be difficult to interpret due to the fact that the sampling was conducted in a laboratory where a large number of solvents were routinely utilized. Large peaks were found for methyl chloride, isopropanol, chloroform, heptane, methanol, pentane, and a number of aliphatic hydrocarbons. Ethanol, acetone, benzene, toluene, and perchloroethylene were also found to be present in moderate amounts. These compounds would be expected to be common in a chemistry laboratory and none were considered unique to the

methamphetamine manufacturing. Chloroform was the solvent that was used to collect the methamphetamine and it was found at high levels in the sampling effort.

Methamphetamine Wipe Sample Results

A number of methamphetamine wipe samples were taken at the Colorado Springs Police Department laboratory cooks. The samples were taken in the upper portion of the hoods and were intended to determine the amount of drug that was liberated during the cook. The levels were influenced by the flow rate of the hood and, in fact, may have been lower than the levels actually produced. All of the hoods had prior methamphetamine levels due to previous cooks in this laboratory. The levels of methamphetamine measured after the cook ranged from 0.78 ug/100 cm² to 16 ug/100cm². These levels are well over the 0.5 or 0.1 ug/100 cm² levels that are currently being used as a standard by many states. The levels are lower, however, than we expected since the cook was confined to the hood. The lowest methamphetamine levels were found in the hood where the hypophosphorous method was utilized.

We also took wipes of the beaker used to manufacture the methamphetamine and the stirring rod for the cook. The stirring rod had 5200 ug of methamphetamine present and the beaker had 7900 ug of methamphetamine present. Both of these items would be expected to be high.

The results of the wipe samples were as follows:

Methamphetamine Wipe Sample Results from Colorado Springs Police Dept. Cooks				
Sample Location	Analytes in ug/wipe			
	Amphetamine	Methamphetamine	Ephedrine	Pseudoephedrine
Street Hood Pre Cook	ND	5.4	0.7	2.8
Street Hood Post Cook	3.2	16	0.5	2.4
Lab Method Pre Cook	ND	0.3	0.2	0.3
Lab Method Post Cook	ND	0.8	ND	ND
Hypophosphorous Pre	0.4	7	0.2	1.8
Hypophosphorous Post	0.5	15	0.4	2.6

Drug Lab Response Results:

We responded to a total of 16 suspected clandestine methamphetamine drug laboratories. As previously mentioned, none of these clandestine drug laboratories were in operation at the time of our response. In fact, most of the labs to which we responded were small labs with limited amounts of chemicals present. In only one instance was it reported by law enforcement that a cook had occurred that day. Due to the type of laboratories sampled, it is expected that the levels of chemical exposure that were found would be at the minimum levels that would be expected. For this reason, the exposures that we documented during the laboratory response phase are not applicable to the exposures that should be expected at clandestine laboratories where cooks are in progress or have recently been conducted.

Inorganic Acid Scan Results

Samples for acids were taken in six of the sixteen laboratories. After the first few laboratories were sampled, it was determined that we would not expect airborne acid to be present unless an actual cook was in progress or had recently been in progress. Initially samples were taken at all of the laboratories but when sample results were consistently below the level of detection, the collection of acid samples was discontinued unless an actual cook was encountered.

Hydrogen chloride was detected in only two of the clandestine labs sampled. In both cases, these were mobile homes. It is not clear that a laboratory had been recently in operation at either of these locations and the levels of acid found were very low (0.007 mg/m^3 and 0.2 mg/m^3). These low levels may suggest that a cook had occurred recently within the suspected laboratory. These results may also represent the lower level of detection for this method. The current ACGIH TLV for hydrogen chloride is a ceiling value of 3 mg/m^3 (2 ppm).

Phosphine Sampling Results

Phosphine is a gas that is liberated during the cooking phase. It is an extremely reactive gas and would not be expected to be present unless a cook was actually occurring. We sampled for phosphine at three of the suspected laboratories and did obtain a positive sample from one lab. The sample result was 358.6 ug/m^3 which we considered to be relatively high. Since a previous blank had come back with a result of 170 ug/m^3 , it is possible that this method of measuring phosphine is not accurate and that this sample was, indeed, a false positive. It is also possible that somehow an accumulation of phosphine was present within the laboratory.

Iodine Sampling Results

Samples for airborne iodine were taken at 10 of the suspected laboratories. In many of the laboratories, iodine stains were observed on carpeting and on the walls as illustrated below:



Figure 2: Iodine stains on carpet of suspected methamphetamine laboratory.

It was expected, therefore, that iodine exposures might be high in some of these facilities. The results of the sampling were as follows:

<i>Iodine Sample Results</i>	
Sample Location	Iodine (mg/m ³)
Hotel room	ND
Upstairs closet	ND
Main room	ND
Upstairs Bedroom	0.015
Main room	ND
Blank	ND
Hotel room	ND
Main room	0.023
Main room	0.007
Upstairs	0.0079
Main room	ND
Downstairs	ND

Although iodine stains were readily apparent in many of the suspected laboratories, elevated levels of airborne iodine were not present in all of the locations. The levels of airborne iodine that were found were well below the current ACGIH TLV of 1.0 mg/m³ (0.1 ppm) as a ceiling value.

Total Hydrocarbon Results

GC/MS samples taken at the suspected laboratories were difficult to interpret due to the fact that hydrocarbons are commonly utilized in most homes. Peaks were found for isopropanol, methanol, pentane, propene, toluene, heptane and a number of aliphatic hydrocarbons. These compounds are commonly used and would be expected to be found in many homes. Many of the common solvents utilized by clandestine methamphetamine cooks do contain the compounds that were found, however, none of these compounds can

be considered to be unique to the production of methamphetamine. In addition, we did not observe any peaks that were exceptionally high except for the isopropanol that we used for a solvent for our methamphetamine wipe samples.

Methamphetamine Wipe Sample Results

Methamphetamine wipe samples were taken at all of the suspected clandestine laboratories. An attempt was made to take all samples in a 100 cm² area but in many cases that was not possible. For this reason, the wipe samples should be considered to be in ug/sample results. The results of the sampling efforts are as follows:

Wipe Samples Taken in Methamphetamine Labs

Sample Location	Analytes in ug/wipe			
	Amphetamine	Methamphetamine	Ephedrine	Pseudoephedrine
Blind in bedroom	1	120	ND	5.6
Closet Wall	0.36	160	ND	20
Blank	ND	0.2	ND	ND
Unknown	ND	5.9	ND	11
Unknown	2.9	370	ND	290
Unknown	0.14	12	ND	5.5
Counter top by sink	0.1	2.8	15	1300
Bathroom floor	0.2	9.2	ND	3.7
Floor by kitchen	0.2	39	0.84	150
Red box	0.2	9.1	ND	3.7
Wood table	1.3	920	ND	11
Window blinds	ND	2.1	ND	ND
Ceiling fan	2	94	0.22	0.47
Wall by sink	ND	1.1	ND	ND
Light above sink	0.41	49	15	26
Behind stove	ND	2	ND	0.96
Inside microwave	2	150	ND	0.86
Unknown	ND	0.95	ND	ND
Unknown	ND	3.7	ND	ND
Unknown	ND	ND	ND	ND
Unknown	ND	ND	ND	ND
Unknown	0.11	7.4	ND	ND
Unknown	ND	3.4	ND	ND
Table on floor by pumps	0.92	520	0.72	81
Table on floor with splashes	0.31	29	1.6	150
Table in bedroom	ND	1.6	ND	0.5
Post in bedroom	ND	1.1	ND	4
Chandelier in stairwell	0.55	32	0.86	39
TV screen	ND	2.9	ND	4
Sofa	ND	0.84	ND	0.9
Air return	ND	4.1	0.2	0.5
Range hood	0.2	16	ND	0.8
Microwave inside	ND	0.4	0.71	52
Ruined microwave	0.2	9.5	ND	1

Banister	ND	0.8	ND	1.1
Kitchen stove	ND	1.8	6.6	520
Bath exhaust grill	8.6	1600	75	390
Burner in bedroom	0.5	16000	65	670
Ceiling fan	7.1	2500	34	1400
Bedroom dresser	ND	71	2	99
Microwave oven	33	1700	54	4300
Range hood	1	100	2	31
Ceiling fan	4.1	250	2	30
Return air grill	0.9	85	1	48
Night stand	ND	2800	9.3	37
TV table	ND	25	ND	12
Ceiling stain	ND	10000	37	20
Microwave oven	ND	2400	7.2	21
Night stand by bed	ND	62	ND	8
Blank	ND	ND	ND	ND
Bedroom desk	ND	13	5	390
Cold air return	0.5	37	ND	1
Glass pan in bedroom	ND	62	1200	51000
Microwave	ND	37	520	30000
Television screen	0.7	44	ND	4.4
Livingroom table	ND	85	ND	12
Bedroom blinds	ND	13	ND	2
Bedroom dresser	ND	17	ND	3.2
Stained kitchen ceiling	ND	14	ND	5.1
Kitchen counter top	ND	0.91	ND	2.1
Kitchen vent	1.2	24	2	8.4
Microwave	ND	33	7.3	690
Furnace return grill	2.7	320	22	38
Livingroom table	1.4	430	2	14
Inside refrigerator	ND	11	ND	2.8
kitchen stove	ND	12	ND	19
Sink counter	ND	180	120	5700
Return air vent	0.67	450	6.6	99
Recording studio table	ND	250	7.7	120
Kitchen stove	ND	790	280	4000
Livingroom table	ND	120	74	170
Microwave	ND	330	65	4000
Bedroom table	ND	64	2.9	130
Blank	ND	5.7	ND	45
Coffee table	2.4	14	ND	5.8
TV screen	34	300	96	170
Dresser top	ND	3.8	ND	ND
Heater	ND	1.2	ND	ND
Kitchen table	ND	ND	ND	ND
Inside Refrigerator	ND	ND	ND	ND
Kitchen counter	ND	ND	ND	ND
Floor stains	ND	ND	ND	ND
Shelf under window	23	94	17	73
Field Blank	ND	ND	ND	ND

N. Metro Car	ND	ND	ND	ND
Stove	ND	ND	ND	ND
Furnace return grill	ND	10	ND	ND
Bedroom Table	0.43	63	ND	ND
Field Blank	ND	ND	ND	ND
Stove	ND	4	ND	ND
Microwave	1.3	660	ND	8.2
Bedroom Table	ND	650	ND	ND
John's Car	ND	ND	ND	ND
Unknown	ND	14	ND	4.4
Unknown	0.96	78	ND	20
Unknown	ND	8.3	ND	23
Unknown	ND	ND	ND	ND
Drug Car	ND	ND	ND	ND
Drug Car	ND	ND	ND	ND
Drug Car	ND	ND	ND	ND
Drug Ca	ND	ND	ND	ND
Drug Car	ND	ND	ND	ND
Drug Car	ND	ND	ND	ND

A total of 97 methamphetamine wipe samples were taken in the suspected methamphetamine laboratories. Six of the samples were blanks and only one of the blanks was positive (5.7 ug/wipe). Eighty three samples were positive with a range from 0.4 ug/sample to 16,000 ug/sample. The 16,000 ug/sample was taken in a hotel room where there had been an explosion that coated the ceiling with material. The wipe was of the material on the ceiling. It was apparent from the results that the drug car seized by the Trinidad Police Department had not been used as a methamphetamine laboratory and data from it was removed from analysis. The mean of the samples, assuming a non-detect to be 0.01 ug/sample, was 499 ug/sample. The median for all of the samples was 25 ug/sample. It should also be noted that in 10 out of the 14 labs tested, all of the samples taken in the suspected laboratory were positive.

Many of the locations where methamphetamine was found could not have been contaminated by material falling on a surface. Methamphetamine residue was found not only on tables, but also on air return grates and on ceiling fans. High levels of methamphetamine were also found in refrigerators, microwaves, and kitchen appliances, suggesting that food contamination is likely to occur. In general, all of the suspected clandestine methamphetamine laboratories had widespread, high levels of methamphetamine in many areas of the house or structure.

Results of the Controlled Methamphetamine Cook in a House:

This controlled methamphetamine cook was conducted in order to determine the likely exposures present during the cook itself. These exposures represent the potential exposures to the cook and family residing in the building where the manufacturing was conducted as well as the potential exposures to law enforcement officers entering a suspected lab, during an actual cook. It was expected that these results would generally

fall between the worst-case exposures generated in the Colorado Springs Police Department Laboratory and the results found during our sampling of the suspected labs that were not in operation at the time of the investigation.

The building was set up to utilize cooking components that a clandestine cook would be expected to use. The amount of methamphetamine made was, however, less than the amount normally made by cooks, possibly resulting in lower exposure levels. A general cook set-up is shown below:

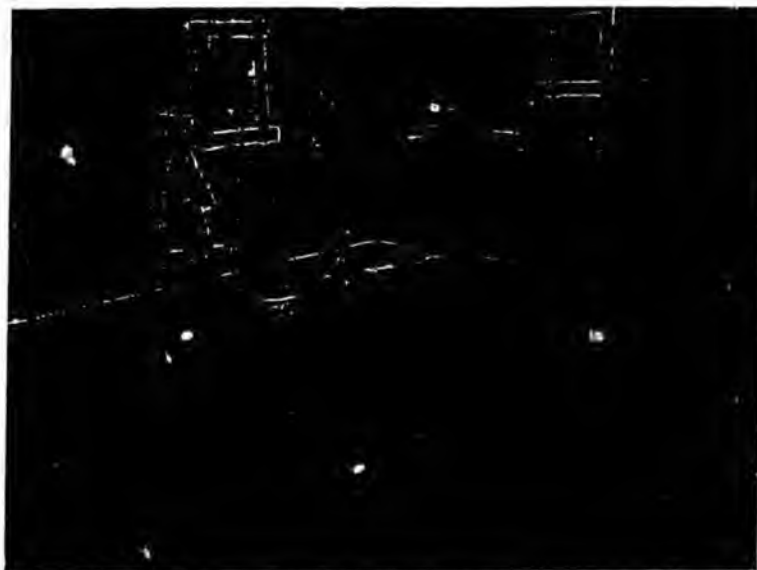


Figure 3: Methamphetamine lab setup in abandon house.

Three separate controlled cooks were conducted during this portion of the project. A cook using the red phosphorous method was conducted in the kitchen of the abandoned house and two hypophosphorous cooks were conducted in the bedroom. The salting out operations for all of the cooks were conducted in the kitchen. Samples were taken for phosphine, iodine, and hydrogen chloride for all of the operations. Samples were taken in close proximity to the cook (generally immediately above the cook), at a distance away from the cook (10 feet to 15 feet distant), and in the breathing zone of the individuals conducting the cook.

Red Phosphorous Method Results

The results of the chemical sampling during the red phosphorous cook were as follows:

Location	Phosphine (mg/m ³)	Iodine (mg/m ³)	Hydrogen Chloride (mg/m ³)
Above Cook	> 1.32	1.6	14.6
Distant from Cook	0.37	0.29	0.17
Personal Sample	0.2	0.42	0.65

These results indicate that the red phosphorous method of cooking methamphetamine generated a significant amount of chemical contamination. The current ACGIH TLV for phosphine is 0.4 mg/m^3 (with a short term exposure limit (STEL) of 1 mg/m^3). The TLV for Iodine is a ceiling value of 1.0 mg/m^3 and the TLV for hydrogen chloride is a ceiling value of 3.0 mg/m^3 . As the table above illustrates, the TLV was exceeded for all three chemical substances at the location of the cook and produced significant levels at some distance from the cook. Although the personal samples obtained from the cook were lower than the levels generated at the cook, it should be recognized that the cooks spent a minimal time in the cook area in order to limit exposure. This would not necessarily occur in an actual clandestine laboratory.

In addition, we believe that the hydrogen chloride exposure at this stage of the cooking process is the result of the use of ephedrine chloride in the cook. It is possible that if other substances were used, the hydrogen chloride content would be much less or missing.

The samples obtained using the above sampling methods resulted in a time-weighted average of the concentration of those chemicals during the entire time of the cook. The samples are therefore an average for a period of approximately two hours. The real-time equipment provided information on the peak exposures during that time. The results were as follows:

Location	Peak Phosphine (mg/m^3)	Peak Hydrogen Chloride (mg/m^3)
Close to Cook	4.6	56.2
Distant from Cook	0.67	1.52

In the vicinity of the cook, both the phosphine and the hydrogen chloride are above the current standards, with hydrogen chloride being significantly above the current ACGIH allowable ceiling value. Even at a distance from the cook, the levels measured were significant and approaching current occupational standards.

Hypophosphorous Method Results

The results of the chemical sampling conducted during the initial hypophosphorous cook were as follows:

Location	Phosphine (mg/m^3)	Iodine (mg/m^3)	Hydrogen Chloride (mg/m^3)
Above 1 st Cook	0.2	0.19	3.4
Distant from 1 st Cook	ND	NA	0.15
Personal Sample	0.28	ND	0.53
Above 2 nd Cook	0.5	0.04	Trace
Distant from 2 nd Cook	ND	0.03	0.27

ND = Not Detected
NA = Not Available

During this sampling period, the levels of phosphine, iodine and hydrogen chloride were generally less than the levels measured during the red phosphorous cook. Detectable levels of phosphine, iodine, and hydrogen chloride were, however, measured for each of the trials using this method. The exposure levels were generally below the current ACGIH TLV's although the hydrogen chloride concentration was slightly above the proposed ceiling TLV ceiling of 2.8 mg/m³. This elevated hydrogen chloride level may also be due to the use of the ephedrine chloride during the process since no hydrogen chloride was present in the chemicals combined for the cook.

The peak levels of phosphine and hydrogen chloride were also as follows:

Location	Peak Phosphine (mg/m ³)	Peak Hydrogen Chloride (mg/m ³)
Close to Cook	1.19	9.9
Distant from Cook	0.56	5.3

These results again indicate that using the methods that we used, both phosphine and hydrogen chloride do exceed current occupational standards for a period of time. Since the hydrogen chloride is a ceiling PEL, this becomes very important to those exposed.

Hydrogen Chloride Results During Salting Out

During the salting out phase of the process, hydrogen chloride was found to be present at high levels. The time-weighted sample results from the laboratory samples revealed hydrogen chloride levels ranging from 1.2 mg/m³ to 30.4 mg/m³ in the areas of the process. The real-time monitor measured a peak hydrogen chloride level of 228 mg/m³ which is orders of magnitude above the ACGIH ceiling TLV of 7.5 mg/m³. These levels, even if existing for only a short period of time, could result in significant medical concerns for the individuals exposed to these levels.

Methamphetamine Wipe Sample Results

In order to determine the amount of methamphetamine contamination due to cooking methamphetamine, we took a number of wipe samples for methamphetamine. These samples were taken on both vertical and horizontal surfaces within the house. Samples were taken before and after the cook in order to determine the contribution of the cooks. Samples were taken in the area of both cooks. The following results were obtained from our sampling:

Cook Type	Location	Pre-Cook (ug/100 cm ²)	Post-Cook (ug/100 cm ²)
Red-P	Vertical wall 113" from cook	ND	10
Red-P	Horiz. Counter 6" from cook	ND	87
Red-P	Horiz. Counter 72" from cook	ND	28
Red-P	Floor 40" from cook	ND	15
Red-P	Wall 63" from cook	ND	20
Red-P	Floor 106" from cook	ND	14
Red-P	Horiz. Cupboard 72" from cook	ND	8.8
Red-P	Cabinet door in bathroom 15 ft. from cook	ND	1.5
Red-P	Cabinet shelf in above	ND	1.7
Hypo	Wall 34" from cook	ND	ND
Hypo	Wall 58 " from cook	ND	ND
Hypo	Wall 44 " from cook	ND	ND
Hypo	Floor 104" from cook	ND	ND
Hypo	Wall 128" from cook	ND	ND
Hypo	Floor in next room 124" from cook	ND	0.05
Hypo	Wall 69" from cook	ND	ND

ND = Not Detectable

As this table indicates, methamphetamine was not detected in any of the samples taken prior to conducting any of the cooks. The area was cleaned and sampled before any of the cooks and a 100 cm² area marked off for each area. The areas were sampled before the cook and after the cook. Figure 4 shows a typical vertical surface marked for sampling.



Figure 4: Marked wipe locations taken during controlled cooks.

Based on the information obtained, no methamphetamine was released during the hypophosphorous cook but substantial amounts were released during the red phosphorous cook. Levels were dramatically increased at significant distances from the process. It should also be mentioned that these increases in detectable methamphetamine were also due to only one small cook. It is significant that the increases were observed not only on horizontal surfaces but also on vertical surfaces. These data suggest that the

methamphetamine is generated as an aerosol that quickly is dispersed throughout the area of the cook. We believe that this may be the reason for the high levels of methamphetamine that have been found throughout all of the suspected clandestine laboratories that were sampled during this project.

In addition to the area wipes, we also obtained methamphetamine wipe samples from a number of the participants in the project. Wipe samples were taken from the front and head region of the protective suits worn by the cooks and the samplers. The samples were taken in the morning after the cook itself and then in the afternoon after the salting out process. The results of the sampling were as follows:

Time of Sample	Job Description	Methamphetamine (ug/sample)
AM	Hypo Cook	0.04
AM	Red P Cook	0.14
AM	Sampler	ND
AM	Red P Cook (second time)	ND
PM	Sampler	16
PM	Sampler	8.1
PM	Salting Out Cook	18
PM	Blank	0.12

These results indicate that exposure to methamphetamine while sampling and cooking in a methamphetamine lab may result in significant methamphetamine contamination on clothes and skin. The samples were not taken on hands or feet and, therefore, the levels of contamination are not due to touching or walking on spilled product but rather are due to contamination generated during the cook and sampling.

Results of a Controlled Methamphetamine Cook in a Motel:

This controlled methamphetamine cook was conducted in order to verify the data obtained in the previous controlled cook as well as to determine how the chemicals involved would spread in a hotel environment. This cook was conducted by chemists employed by the United States Drug Enforcement Agency who are well versed on the production of methamphetamine and conducted the cook in controlled manner. Therefore, the exposures during this cook were expected to be lower than the previous controlled cooks (Colorado Springs Police Department Laboratory and the controlled cook in the house).

Time weighted average sampling for airborne hydrochloric acid, phosphine, and iodine was conducted in four locations: the cook area, a nightstand across the room from the cook area, the bathroom, and outside the room in the hallway (Figure 5). Personal pumps were used to sample hydrochloric acid, phosphine, and iodine in the breathing zone of the 'cook'. The sampling was divided into two phases consisting of the 'cooking' phase, and the 'filtering/salting out' phase. New sampling media were provided at each location during each phase of the cook in order to better understand what concentrations of