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METH, MEXICO, AND MUTUALITY: REEMPHASIZING A TRANSNATIONAL APPROACH TO FIGHTING THE METHAMPHETAMINE EPIDEMIC IN THE UNITED STATES

*Jason C. Carney**

I. INTRODUCTION

In March 2007 authorities found a man and woman wandering completely naked in a stoned trance alongside a busy highway in North Texas.¹ More disturbingly, the couple had no recollection of leaving their two young children alone on a gravel road a few yards away from the highway, where a search party later found the eight-month-old and two-year-old among the couple's discarded clothes and syringes.² The cause of this horrible and tragic scene is the narcotic methamphetamine ("meth")³ and the parents now face charges for abandoning their children during their meth binge.⁴

The U.S. is currently amidst an epidemic of methamphetamine abuse.⁵ In the past decade meth has steadily become the nation's biggest drug problem.⁶ However, unlike past drug epidemics, such as the crack cocaine problem of the 1980's, meth's devastation and destruction comes not only from its abuse, but also from its production.⁷ While the vast majority of hard narcotics are primarily produced on foreign soil, meth can be manufactured from start to

* J.D. Candidate 2008, University of Tulsa, College of Law, Tulsa, Oklahoma. I would like to thank my lovely wife Lacey for not divorcing me while I undertook this very time-consuming project, my incredible son Jack for inspiring me to new heights, and Austin and Greg for their sage guidance and input over the course of this comment.

1. *Good Morning Texas*, (CBS KXXV-TX Channel 25 television broadcast, Mar. 15, 2007).

2. *Id.*

3. *Id.*

4. *Id.*

5. David J. Jefferson, *Meth: America's Most Dangerous Drug*, NEWSWEEK, Aug. 8, 2005, at 41, available at <http://www.msnbc.msn.com/id/8770112/site/newsweek/print/1/displaymode/1098/>

6. 151 CONG. REC. S9997 (daily ed. Sept. 14, 2005) [hereinafter Frist](statement of Sen. Frist).

7. Jefferson, *supra* note 5.

finish domestically, which has created a tornado of unprecedented problems and crises throughout the nation.⁸

Meth is an extremely addictive drug and users are often hooked after one hit.⁹ The drug has already captured millions across the U.S. in its net of addiction,¹⁰ and the effects on its users are horrifying and potentially deadly.¹¹ The unique availability of meth has fueled its widespread addiction; it can be completely manufactured in a typical suburban home within a day's time.¹² Compounding this problem, the manufacturing process of meth is just as dangerous and deadly as its use and puts innocent people at risk as well.¹³

The federal and state governments have responded by enacting a plethora of new laws dealing with methamphetamine.¹⁴ Many of these new laws concern impeding the domestic manufacture of meth by restricting the essential ingredients used to cook it.¹⁵ The most notable ingredient targeted for restriction is pseudoephedrine, the active ingredient in cold medicines such as Sudafed.¹⁶ Moreover, the federal government has turned out various new initiatives regarding the enforcement of the new meth laws.¹⁷ Much success has been borne of these new laws and initiatives, which have crippled domestic meth production in the past two years.¹⁸ As a result, the majority of meth production

8. See Debra S. Peterson & R. Michael Jennings, *Methamphetamine: A Recipe for Disaster*, 73 OCT J. KAN. B.A. 7 (2004).

9. Jefferson, *supra* note 5.

10. OFFICE OF NATIONAL DRUG CONTROL POLICY, NATIONAL SYNTHETIC DRUGS ACTION PLAN: THE FEDERAL GOVERNMENT RESPONSE TO THE PRODUCTION, TRAFFICKING, AND ABUSE OF SYNTHETIC DRUGS AND DIVERTED PHARMACEUTICAL PRODUCTS 1-2 (2004), http://whitehousedrugpolicy.gov/publications/national_synth_drugs/national_synth_drugs.pdf [hereinafter NSDAP].

11. Office of National Drug Control Policy, News and Public Affairs, Taking Action Against Methamphetamine: Next Steps and New Tools in the Administration's Efforts, http://www.whitehousedrugpolicy.gov/news/press05/meth_factsheet.html (last visited Oct. 14, 2007) [hereinafter ONDCP FACT SHEET].

12. Peterson & Jennings, *supra* note 8, at 44-45.

13. *Id.* at 44.

14. See *Cooking Up Solutions to a Cooked Up Menace: Response to Methamphetamine in a Federal System*, 119 HARV. L. REV. 2508, 2508 (2006) [hereinafter *Cooked Up Menace*].

15. *Id.* at 2514.

16. *Id.*

17. See Press Release, U.S. Department of Justice Drug Enforcement Administration, Fact Sheet: The Department of Justice's Efforts to Combat Methamphetamine, (June 16, 2006) (on file with author).

18. See Office of National Drug Control Policy, Drug Facts: Methamphetamine, <http://www.whitehousedrugpolicy.gov/drugfact/methamphetamine/index.html> (last visited Oct. 14, 2007) [hereinafter ONDCP METH OVERVIEW].

has shifted to Mexico.¹⁹ Yet because powerful Mexican traffickers have taken near complete control of the meth trade, the amount of meth on U.S. streets continues unabated at high levels.²⁰

While Mexico has responded by creating similar laws to those of the U.S. in dealing with meth, major production and trafficking still occurs there.²¹ Many problems need to be resolved in Mexico before similar success to that of the United States in the fight against meth can be achieved,²² and Mexico needs help from the U.S. in order to do so.²³ Meth trade is too powerful for any single nation to effectively combat and eliminate, especially for a country like Mexico which has a history of failure in fighting narcotics trafficking.²⁴

This comment argues that the key to success in the war on meth extends beyond aggressive domestic legislation, policy, and initiative and lies with more direct U.S. involvement with Mexico. The meth epidemic has undeniably become a joint problem of the U.S. and Mexico. The U.S. must fully engage in a transnational approach with Mexico regarding meth policy, initiative, and laws to finally make progress beyond a reduction in domestic production within the meth epidemic. And, such a U.S.-Mexico transnational cooperation must exceed past efforts at collaboration. Finally, Mexico must ultimately emulate U.S. lawmaking and initiatives to help counter the wide-scale production and trafficking in that nation.

Part II of this comment provides a history of the methamphetamine epidemic currently plaguing the United States. This section describes the evolution of meth use in society, and the path of devastation both its consumption and production leaves. Part III first analyzes individual states' responses to widespread meth use and production, particularly in the West and Midwest, and the new breed of legislation it has spawned. This section also critiques the shift to Mexican-based production that resulted as a consequence of

19. *Id.*

20. NATIONAL DRUG INTELLIGENCE CENTER, U.S. DEP'T OF JUSTICE, NATIONAL DRUG THREAT ASSESSMENT 2007 6 (2006), <http://www.usdoj.gov/ndic/pubs21/21137/21137p.pdf> [hereinafter NDTA 2007].

21. See *International Methamphetamine Trafficking: Hearing Before the Subcomm. on International Economic Policy, Export and Trade Promotion of the S. Foreign Relations Comm.*, 109th Cong. (2006) (statement of Karen P. Tandy, Administrator, Drug Enforcement Administration, United States Dept. of State) [hereinafter Tandy].

22. See Steve Suo, *The Mexican Connection*, OREGONIAN, June 5, 2005, at A01; see also Mike Sunnucks, *Corruption Seen as a Major Hurdle to U.S.-Mexico Border Cooperation*, PHOENIX BUSINESS JOURNAL, May 5, 2006; see also *Bribes Take \$69B Bite Out of Mexican Economy*, ALBANY TIMES UNION, Aug. 13, 2006, at A7 [hereinafter Bribes].

23. See generally Tandy, *supra* note 21.

24. See generally Melvyn Levitsky, *Transnational Criminal Networks and International Security*, 30 SYRACUSE J. INT'L L. & COM. 227 (2003).

the new meth laws. Part III views the federal response to meth as well as compares its effectiveness to state legislation. Part IV shifts to the Mexican side of the problem, and compares and contrasts the Mexican government's response to the meth epidemic. This section examines the lack of Mexican legislation as well as analyzes the effectiveness of Mexican law, policy, and enforcement regarding meth. Part V synthesizes the previous sections and also evaluates the many new collaborative initiatives between the U.S. and Mexico. This section argues that neither the U.S. nor Mexico alone can effectively fight the meth problem, but must work together to find real success. Part V further discusses the current commitment to transnational cooperation in the fight on meth, highlights the problems, and makes several recommendations for the future of the joint efforts between the U.S. and Mexico.

II. THE HISTORY OF THE MERCILESS METHAMPHETAMINE

A. *From Out of Nowhere*

In a very short period of time, Lynn Noland went from being a successful 36 year-old marketing executive in Tennessee to wearing overalls and living in a half-way house.²⁵ Terry Silvers of Georgia went from being a dependable, hard-working father of three with concrete career ambitions to suddenly wearing leg shackles and handcuffs while living in a concrete cell.²⁶ The common thread in both of these stories is methamphetamine.²⁷ Most alarming, however, is that Lynn's and Terry's respective stories are becoming quite regular and common across the United States.²⁸

Methamphetamine caught the nation by complete surprise.²⁹ "Poor man's cocaine," as meth was once known, originated in the West and has migrated to all corners of the U.S.,³⁰ The drug continues to move eastward at a torrid pace with few places remaining untouched.³¹ Unlike other popular narcotics which

25. 151 CONG. REC. S9997, S9998 (daily ed. Sept. 14, 2005) (statement of Sen. Frist).

26. Jefferson, *supra* note 5.

27. *See* 151 CONG. REC. S9997 (daily ed. Sept. 14, 2005) (statement of Sen. Frist).

28. Jefferson, *supra* note 5.

29. *Id.*

30. *Id.* (Meth goes by many street names - chalk, crank, go-fast, ice, shabu, speed, stove top, yellow bam, to name but a few - and began in the rural areas of states such as California and Oregon); *see also* ONDCP FACT SHEET, *supra* note 11.

31. *Law Enforcement and the Fight Against Methamphetamine: Improving Federal, State and Local Efforts: Hearing Before the Subcomm. on Criminal Justice, Drug Policy, and Human Resources of the H. Comm. on Government Reform*, 109th Cong. (2005) (statement of Gary W. Oetjen, Assistant Special Agent in Charge, Louisville, OH District Office of the Drug Enforcement Administration).

have usually proliferated in urban centers, meth's production and consumption has grown and evolved in rural areas, away from the media's spotlight.³²

Meth is not a new narcotic; it was created in Japan during World War II and used by troops on both sides during the conflict.³³ It was even prescribed as a diet pill in the U.S. during the 1950's,³⁴ but new cooking methods have created a more powerful and addictive meth for today's generation.³⁵ The U.S. government made the drug illegal in the 1970's; however, biker gangs in the West were already producing and selling the home-made product.³⁶ By the early 1990's, Mexican cartels were getting in on the growing business by producing meth in large quantities,³⁷ and at the turn of the millennium small "mom and pop" meth labs were popping up all over the West and Midwest.³⁸

B. The Composition of Addiction

Methamphetamine, a stimulant to the central nervous system, is extremely addictive³⁹ and has been described as "more powerful than any other drug [with] three times the intensity of cocaine."⁴⁰ A meth high creates a powerful and intense "rush" or boost of energy, and immediately enhances the senses,⁴¹ lasting for as long as twelve hours at a time.⁴² One user described taking a single hit of meth after a long night of drinking; "I snorted a line and within five seconds it was like I'd had [twelve] hours of sleep and wasn't drunk anymore."⁴³ Meth is self-administered in a variety of ways, including injection, snorting, smoking, or even oral ingestion⁴⁴ and is usually produced in a powder, base, or pill form.⁴⁵ Users have typically chosen smoking as their primary mode of

32. Jefferson, *supra* note 5.

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.* (making meth a "Schedule II" drug in 1970 under the Controlled Substance Act); *see* 21 U.S.C. § 812 (2007).

37. Jefferson, *supra* note 5.

38. *Id.* Three general factors have contributed to meth's rapid spread across the nation: the drug is relatively cheap in comparison to hard drugs like cocaine or heroin, so people of all social statuses can afford to use it; it is relatively easy to make and can be made virtually anywhere; and it is incredibly addicting. *Id.*

39. ONDCP METH OVERVIEW, *supra* note 18; *see also* 151 CONG. REC. S9997 (daily ed. Sept. 14, 2005) (statement of Sen. Frist).

40. 151 CONG. REC. S9997, S9998 (daily ed. Sept. 14, 2005) (statement of Sen. Frist).

41. *Id.*

42. ONDCP METH OVERVIEW, *supra* note 18.

43. Jefferson, *supra* note 5.

44. ONDCP METH OVERVIEW, *supra* note 18.

45. ONDCP FACT SHEET, *supra* note 11.

administration, as smoking the drug causes a faster, more intense and longer-lasting high.⁴⁶

Once ingested into the body, meth triggers the release of huge amounts of the neurotransmitters dopamine, serotonin, and norepinephrine into the brain.⁴⁷ Dopamine in particular, as one of the body's sources of pure pleasure, is the most potent.⁴⁸ Such a chemical release provides the user with feelings of acute alertness, extreme confidence, increased sex drive, and general euphoria.⁴⁹ The rush caused by meth is so powerful that one hit can cause immediate addiction.⁵⁰

The negative effects of meth, however, are more drastic than any high it provides to users. Generally, prolonged use of meth will cause severe nervous system damage and cardiovascular problems.⁵¹ Specifically, users can suffer withdrawal symptoms that include depression, anxiety, paranoia, aggression, fatigue, and uncontrollable cravings for the drug.⁵² It also has the potential to cause psychotic delusions resulting in homicidal and suicidal tendencies.⁵³ Over time the accumulation of excess dopamine released in the brain destroys its ability to transmit signals.⁵⁴ Damage to the brain caused by meth use is similar to that of Alzheimer's disease.⁵⁵

Meth's devastation is unmistakable in the physical deterioration of its users.⁵⁶ Meth use constricts the capillaries near the skin causing an itching sensation which, when coupled with the accompanied paranoia, has been likened to feeling like bugs are crawling beneath the skin.⁵⁷ Severe tooth decay (known as "meth mouth") is very common among users due to the toxicity of the chemicals in the inhaled smoke.⁵⁸ Long term users usually suffer severe emaciation from a suppressed appetite.⁵⁹

46. NDTA 2007, *supra* note 20, at 6.

47. Aaron R. Harmon, *Methamphetamine Remediation Research Act of 2005: Just What the Doctor Ordered for Cleaning Up Methfields – or Sugar Pill Placebo?*, 7 N.C. J.L. & TECH. 421, 431 (2006).

48. Peterson & Jennings, *supra* note 8, at 8 (comparing the meth high to a sexual orgasm).

49. ONDCP FACT SHEET, *supra* note 11.

50. Jefferson, *supra* note 5.

51. *Cooked Up Menace*, *supra* note 14, at 2510.

52. ONDCP FACT SHEET, *supra* note 11 (noting that such intense cravings are also the impetus of much criminal activity, as users do whatever it takes, which is often theft, to obtain the drug); *see generally* Press Release, U.S. Air Force Space Command, 'Meth' Destroys Health of Mind, Body, Community, (January 10, 2007) (on file with author.).

53. ONDCP METH OVERVIEW, *supra* note 18.

54. 151 CONG. REC. S9997, S9998 (daily ed. Sept. 14, 2005) (statement of Sen. Frist).

55. ONDCP METH OVERVIEW, *supra* note 18.

56. ONDCP FACT SHEET, *supra* note 11.

57. *Id.*

58. *Id.* *See also* Meth Mouth Poster, <http://www.methfreetn.org/mediakit/files/MethMouthPoster.pdf> (last visited Sept. 28, 2007)

It is estimated that there are over 1.5 million meth users in the United States⁶⁰ and the U.S. government has proclaimed meth as the most widely used synthetic drug in the nation.⁶¹ As of 2005, some twelve million Americans had experimented with the drug, a number that has likely increased to date.⁶² Police rank meth as their most-battled drug,⁶³ with documentation of its use reported in all fifty states.⁶⁴ While the Western U.S. has primarily carried the brunt of the meth scourge, recent data reflecting treatment-admission trends for meth show that the East is quickly catching up.⁶⁵ States in the East with above-average meth-related treatment admissions jumped from two to eight in only ten years.⁶⁶ As of 2004, meth addicts account for more rehab patients than any other drug in over sixteen states.⁶⁷ In addition, meth is considered by the federal government to be the number one drug threat to the United States.⁶⁸ Throughout the world the methamphetamine/amphetamine class narcotic is the second most used drug behind marijuana.⁶⁹

C. *A Perilous Production*

The fight against meth is unique, and unlike more traditional narcotics, methamphetamine can literally be made anywhere at anytime.⁷⁰ There are some 150 different methods used to cook meth.⁷¹ The level of sophistication involved

(showing a very graphic, yet somewhat amusing illustration of actual “meth-mouth”); *see also* Laura Sullivan, *Meth Mouth Strains Prison Health Care Budgets*, NATIONAL PUBLIC RADIO, Aug. 10, 2005, <http://www.npr.org/templates/story/story.php?storyId=4793417> (last visited Sept. 28, 2007) (“As more and more meth abusers end up behind bars, prisons are having to devote a growing portion of their health-care budgets to emergency dental care. The problem is costing prisons and taxpayers a fortune.”).

59. ONDCP FACT SHEET, *supra* note 11.

60. 151 CONG. REC. S9997, S9998 (daily ed. Sept. 14, 2005) (statement of Sen. Frist).

61. NSDAP, *supra* note 10, at 1.

62. *Id.* at 11.

63. Jefferson, *supra* note 5; *see also* Dennis Romboy & Lucinda Dillon Kinkead, *Meth-Using Moms Who Fail to Clean Up Their Lives are Losing Their Parental Rights*, DESERET NEWS, Nov. 16, 2004 (“45.6 percent of women arrested in Salt Lake City tested positive for meth. . .”).

64. Jefferson, *supra* note 5.

65. *See* OFFICE OF APPLIED STUDIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TRENDS IN METHAMPHETAMINE/AMPHETAMINE ADMISSIONS TO TREATMENT: 1993-2003, <http://oas.samhsa.gov/2k6/methTX/methTX.pdf>.

66. *Id.*

67. Steve Suo, *Unnecessary Epidemic*, OREGONIAN, Oct. 3, 2004, at A01.

68. Harmon, *supra* note 47, at 433.

69. ONDCP FACT SHEET, *supra* note 11 (referring to this class of drugs as “ATS”, or “amphetamine-type stimulants”).

70. *See generally* Peterson & Jennings, *supra* note 8.

71. Harmon, *supra* note 47, at 434.

in cooking meth is equivalent to that of a basic high school chemistry class.⁷² Furthermore, the overall damage inflicted upon society by general meth addiction is exacerbated by the severe risks inherent in its production and manufacture.⁷³

Unlike most other major narcotics, such as heroin or cocaine, methamphetamine requires no organic plant material because⁷⁴ meth is federally classified as a synthetic drug.⁷⁵ Traditionally, all necessary ingredients in producing meth could be acquired at a local Wal-Mart⁷⁶ with sufficient supplies and ingredients costing as little as fifty dollars.⁷⁷ The most important ingredient in the meth recipe is pseudoephedrine, which is the active ingredient in many cold medicines.⁷⁸ The remaining ingredients appear more capable of creating a home-made bomb than a substance for human ingestion.⁷⁹ A couple of the most dangerous ingredients include hydrochloric acid and anhydrous ammonia.⁸⁰ Meth's ingredients essentially create a bomb, as the labs are extremely volatile environments capable of powerful explosions.⁸¹

Meth labs are usually categorized as either a "small toxic labs" (STLs), also known as "mom and pop" labs, and "superlabs," which are capable of producing significantly more amounts of meth at a time.⁸² Most STLs are operated in rural areas⁸³ and these mom and pop labs are mobile and easy to set up.⁸⁴ They have been found in such diverse locations as suburban homes, campers, horse trailers, houseboats, tents, storage facilities, hotel rooms, sheds, car trunks, and RVs.⁸⁵ Mom and pop labs account for the production of about twenty percent of meth

72. *Id.*; See also Peterson & Jennings, *supra* note 8, at 43-45 (explaining that recipes for cooking meth are readily available on the internet).

73. Methamphetamine Control and Community Protection Act, 720 ILL. COMP. STAT. § 646/5 (2005); see also 151 CONG. REC. S9997 (daily ed. Sept. 14, 2005) (statement of Sen. Frist).

74. U.S. DEPARTMENT OF STATE, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT 2006, CHEMICAL CONTROLS 69 (2006), <http://www.state.gov/documents/organization/62383.pdf> [hereinafter INCSR 2006].

75. NSDAP, *supra* note 10, at 1-2.

76. Peterson & Jennings, *supra* note 8, at 8.

77. ONDCP FACT SHEET, *supra* note 11.

78. Peterson & Jennings, *supra* note 8, at 45; see also ONDCP Fact Sheet, *supra* note 11 (noting that retail stores now monitor and restrict sales of all items used for meth production).

79. See ONDCP FACT SHEET, *supra* note 11 (noting that explosions are common place and referencing use of dangerous chemicals and their volatile nature).

80. *Id.*

81. Harmon, *supra* note 47, at 439-40.

82. ONDCP FACT SHEET, *supra* note 11.

83. *Id.*

84. Harmon, *supra* note 47, at 438.

85. *Id.* at 439.

consumed in the U.S.,⁸⁶ while the superlabs require more space and supply requirements, and are usually found in rural areas as well as in Mexico.⁸⁷

Creating the methamphetamine involves a process of mixing acids, ammonias, and metals to reduce the pseudophedrine found in the cold medication.⁸⁸ The result is mixed with strong caustics, solvents and reactive metals whereby the meth is extracted by bubbling an acid gas through it.⁸⁹ The meth drips out of the mixture into the bottom of a container and is filtered, dried, and then ready to be used.⁹⁰ A distribution-worthy amount can be accomplished in just eight hours.⁹¹ Moreover, cooks are getting more efficient and creating a purer, more addictive drug.⁹² The average purity of meth samples tested by the government rose from thirty-nine percent purity in 2001 to over sixty percent purity in 2004.⁹³

Meth laboratories poison the area in which they operate by leaving a toxic chemical waste byproduct, and endanger not only the operators, but all who reside nearby.⁹⁴ Each pound of meth produced in one of these labs leaves behind five to six pounds of toxic waste, and cleanup comes at a cost not only to the public's resources, but also to law enforcement officers' safety.⁹⁵ The Drug Enforcement Administration (DEA) estimates the average cost of cleaning up a single meth lab averages between \$3,000 and \$5,000 for smaller labs, and that price can easily increase for larger ones.⁹⁶ One year, for example, California spent eight million dollars solely on meth waste cleanup.⁹⁷ Often the waste is dumped down a drain, toilet, or merely poured out on the ground outside which destroys plumbing systems and contaminates groundwater.⁹⁸

86. *Breaking the Methamphetamine Supply Chain: Law Enforcement Challenges: Hearing Before the S. Comm. on Finance*, 109th Cong. (2006) (statement of Joseph T. Rannazzisi, Deputy Assistant Administrator, United States Dept. of Justice) [hereinafter Rannazzisi].

87. See generally Harmon, *supra* note 47 and ONDCP FACT SHEET, *supra* note 11.

88. Harmon, *supra* note 47, at 435.

89. *Id.* at 435-36.

90. *Id.* at 436.

91. *Id.* at 438.

92. Suo, *supra* note 67.

93. NDTA 2007, *supra* note 20, at 39.

94. ONDCP FACT SHEET, *supra* note 11.

95. 151 CONG. REC. S9997, S9998 (daily ed. Sept. 14, 2005) (statement of Sen. Frist) (explaining that law enforcement officers have the dirty and dangerous duty of cleaning up a meth lab's mess).

96. See Christopher P. DePhillips & Brain P. Sharkey, *How the Pharmaceutical Industry is Coming Under Attack-Part 1*, 14 METRO. CORPORATE COUNSEL 12 (2006).

97. Kelly Pakula, *Meth Waste Poses Danger*, SAN MATEO TIMES, Oct. 9, 2006.

98. Harmon, *supra* note 47, at 442.

The noxious fumes produced when cooking meth permeate any surface contacted⁹⁹ and the chemicals often spill during the process.¹⁰⁰ Burn treatment from meth lab accidents is becoming common among hospitals and burn-unit facilities.¹⁰¹ Tragically, because meth labs are frequently set up in homes, children are too often the victims of its toxic consequences.¹⁰² For example, one story involved a little girl whose father's meth lab fumes were so toxic it melted her eyelids shut.¹⁰³

The consequences of unknowingly moving into a home that was a former meth lab are equally grave.¹⁰⁴ An older couple in Minnesota moved into such a home and suffered serious medical conditions because of the contamination left behind.¹⁰⁵ Another family found out too late that their new home had been used for meth production, and soon discovered their young child's crib contaminated with meth toxins far beyond healthy limits.¹⁰⁶ Furthermore, a Colorado family unknowingly moved into a former meth house, which later caused them to lose their in-home day care business and declare bankruptcy.¹⁰⁷

Superlabs pose many of the same hazards as the smaller mom and pop labs, but produce much more meth—they can produce ten or more pounds of meth in twenty-four hours.¹⁰⁸ Most superlabs operate in Mexico, and the ones found in the U.S. are usually run by Mexican-national criminal groups.¹⁰⁹ The majority of domestic superlabs are found in California.¹¹⁰ Because of the scale of the operation, and experience of the cooks, superlabs are more sophisticated and stationary, but one can only imagine the magnitude of waste they create.¹¹¹

99. *Id.* at 441.

100. *Id.* at 440-41 (showing that meth cooks in small domestic labs, as one might imagine, are not exactly the most scrupulous people).

101. See 151 CONG. REC. S9997 (daily ed. Sept. 14, 2005) (statement of Sen. Frist) (explaining facts and figures of cost and admission rates).

102. *Cooked Up Menace*, *supra* note 14, at 2512.

103. 151 CONG. REC. S9997 (daily ed. Sept. 14, 2005) (statement of Sen. Frist); see also Kim Archer, *Meth Still Drug of Choice*, TULSA WORLD, Dec. 26, 2006 (discussing a three year old little boy who was found alone and lost, having wandered miles from his meth lab home).

104. Press Release, U.S. Department of Justice, Administrator Tandy Speaks at National Methamphetamine Chemicals Initiative Conference, (May 18, 2006) (on file with author) [hereinafter Initiative Conference] (discussing the plight of families who moved into former meth lab homes).

105. *Id.* (suffering from diabetes, stomach distress and liver infection).

106. *Id.*

107. *Id.*

108. ONDCP FACT SHEET, *supra* note 11.

109. *Id.*

110. Harmon, *supra* note 47, at 437.

111. *Id.* at 438.

Domestic meth production peaked during the year 2003, when the government reported 10,212 meth lab seizures.¹¹² This reflected a drastic and furious increase in a short period of time compared to the number of seizures in 1997, which were reported at only 2,800.¹¹³ However, there is a current downward trend in the number of seized meth labs, with only 2,159 seizures reported in 2006.¹¹⁴ This is due in large part to states implementing restrictions on the sale of retail pseudoephedrine.¹¹⁵ Regardless, it is clear that methamphetamine has blazed a trail of destruction and devastation in our society.¹¹⁶ As President George W. Bush appropriately summarized, “[m]ethamphetamine abuse shatters families and threatens our communities.”¹¹⁷

III. THE GOVERNMENT STRIKES BACK

A. *A Shift in Production and Distribution*

While personal meth use and abuse continues unabated in the United States, its domestic production and distribution are currently undergoing dramatic shifts.¹¹⁸ Precursor chemical restrictions and law enforcement pressure have had a significant impact on domestic meth lab operation.¹¹⁹ Consequently, there has been a major production shift to south of the border in Mexico,¹²⁰ resulting in a domestic lab seizure decrease of forty-two percent, from nearly 10,000 seizures in 2004 to fewer than 6,000 in 2005.¹²¹ Preliminary data for 2006 and 2007 indicate that this trend has continued.¹²²

In some Midwestern states, such as Missouri and Ohio, lab seizures have decreased by as much as fifty-five percent.¹²³ Montana released a recent report

112. NDTA 2007, *supra* note 20, at 6, fig. 1.

113. *Cooked Up Menace*, *supra* note 14, at 2512.

114. NDTA 2007, *supra* note 20, at 6, fig. 1.

115. *Id.*

116. *See generally* 151 CONG. REC. S9997 (daily ed. Sept. 14, 2005) (statement of Sen. Frist). For an example of the financial damage meth causes to society, *see Archer*, *supra* note 104 (reporting that meth abuse costs the state of Oklahoma billions per year).

117. Press Release, U.S. Department of Justice, Fact Sheet: Department of Justice Efforts to Combat Meth Amphetamine Use. (November 30, 2006 (on file with author)).

118. NDTA 2007, *supra* note 20, at 6.

119. *Id.* Precursor chemicals, like pseudoephedrine, are the ingredients used in making meth. This will be fully discussed below.

120. *Id.*

121. *Id.*

122. *Id.*

123. NDTA 2007, *supra* note 20, at 7.

showing lab seizures down from 583 in 2005 to 284 in 2006.¹²⁴ From October 1, 2006, to the present time only a single meth lab seizure has been reported.¹²⁵ During a similar period, Minnesota reported a seventy-eight percent decrease in the discovery of meth labs.¹²⁶

Domestic superlabs have followed suit, falling from 132 seizures in 2003 to fifty-five in 2004 and to just nineteen this year.¹²⁷ In California, where the majority of superlabs operate, seizures dropped to seventeen in 2006.¹²⁸ Meanwhile between 2002 and 2005, the number of Mexican-based superlabs discovered by Mexican authorities nearly tripled, going from thirteen to thirty-seven.¹²⁹ During this same time frame, methamphetamine seizures in Mexico more than doubled to 984 kilos.¹³⁰ And, as will be discussed more fully, Mexico's importation of pseudoephedrine-based cold medicines increased nearly seventy percent in that time.¹³¹

Although meth distribution from domestic mom and pop labs has drastically decreased nationally since 2004, Mexican meth groups in the U.S. have taken advantage of the domestic labs' reduced production and moved in.¹³² Even in the small rural communities of the Midwest the Mexican groups have gained control over most of the distribution.¹³³ The government reports that Mexican groups are supplanting local independent traffickers and producers and spreading throughout the Great Lakes, Mid-Atlantic, Southeast, and West Central regions.¹³⁴ It is estimated that eighty percent of meth in the U.S. is currently controlled by Mexican traffickers.¹³⁵

124. MIKE MCGRATH, METHAMPHETAMINE IN MONTANA, A PRELIMINARY REPORT ON TRENDS AND IMPACT 3 (Jan. 2007) <http://doj.mt.gov/news/releases2007/20070124preliminarymethreport.pdf>.

125. *Id.*

126. Rachel Paulose & Michael Campion, *Stricter Laws are Helping in a Fight Against Meth*, ST. PAUL PIONEER PRESS, Nov. 30, 2006.

127. *Fighting Meth in America's Heartland: Hearing Before the Subcomm. on Criminal Justice, Drug Policy, and Human Resources of the H. Comm. on Government Reform*, 109th Cong. (2005) (statement of Scott M. Burns, Deputy Director for State and Local Affairs, Office of National Drug Control Policy); see also Richard Marosi, *Meth Lab Boom Migrates South*, L.A. TIMES, Nov. 26, 2006.

128. NDTA 2007, *supra* note 20, at 7, fig. 2.

129. Marosi, *supra* note 128.

130. *Id.*

131. *Id.* (Although recently, the Mexican government has reduced its pseudoephedrine imports); see also NDTA 2007, *supra* note 20.

132. NDTA 2007, *supra* note 20, at 7.

133. *Id.*

134. *Id.* at 8.

135. Marosi, *supra* note 128.

With control over most meth production and distribution within the U.S., Mexican-run labs are supplying vast amounts of meth to American communities.¹³⁶ In January 2006, authorities discovered the largest laboratory ever operated in the Americas, a fortress-like building with custom-designed cookers capable of producing 400 pounds of meth a day.¹³⁷ Meth lab discoveries occur across the entire country of Mexico.¹³⁸ Most production occurs in Western Mexico, in states such as Jalisco and Sinaloa.¹³⁹ Like the U.S., lab activity has primarily flourished in the rural areas¹⁴⁰ and U.S. nationals have fled to Mexico to manufacture meth.¹⁴¹ At the U.S.-Mexico border meth seizures spiked from 1800 kilos in 2003 to nearly 3,000 in 2005.¹⁴² At one border crossing near San Diego meth seizures are up 106 % from a year ago.¹⁴³ The U.S. government, specifically the DEA, concedes that any domestic success in reducing meth production has been completely offset by Mexican-meth importation.¹⁴⁴

B. Preempting the Precursor

1. State Action

The decrease in domestic meth production and distribution is almost wholly attributable to state-level precursor chemical controls.¹⁴⁵ Chemicals used in drug manufacturing are split into two categories: “precursor” and “essential” chemicals.¹⁴⁶ Precursor chemicals are the specific materials or ingredients used

136. See generally NATIONAL DRUG INTELLIGENCE CENTER, NATIONAL METHAMPHETAMINE THREAT ASSESSMENT 2007 1 (Nov. 2006), <http://www.usdoj.gov/ndic/pubs21/21137/21137p.pdf> [hereinafter NMTA 2007].

137. Marosi, *supra* note 128 (explaining that in comparison, California-based superlabs create 20 pounds of the drug on a good day.).

138. *Id.*

139. PBS Frontline, The Meth Epidemic: Mexican Meth, <http://www.pbs.org/wgbh/pages/frontline/meth/etc/updmexico.html> (last visited Sept. 3, 2007).

140. Marosi, *supra* note 128.

141. *Id.* (highlighting a story that involves an Idaho State University chemistry professor who set up a large lab in Mexico).

142. *Id.*

143. *Mexican Meth Floods U.S.*, CBSNEWS, May 19, 2006, <http://www.cbsnews.com/stories/2006/05/19/eveningnews/main1636846.shtml> (last visited Oct. 14, 2007).

144. Rannazzisi, *supra* note 86.

145. NMTA 2007, *supra* note 137, at 2.

146. INCSR 2006, *supra* note 74 (however, “precursor” is frequently used to identify both).

in the production of meth and remain in the final product.¹⁴⁷ Precursor chemicals are usually sold commercially in small quantities.¹⁴⁸ Most precursor chemicals have broad commercial applications, are widely traded and sold, and are available from myriad sources.¹⁴⁹

Found as the active ingredient in over-the-counter cold medicines, pseudoephedrine is the most important of the precursor chemicals of meth, but others also warrant strict control.¹⁵⁰ Anhydrous ammonia fertilizer, ethyl alcohol, red phosphate and Freon represent other significant precursor chemicals in meth.¹⁵¹ Meth production has flourished in the Midwest in part because of the access to the large amounts of anhydrous ammonia fertilizer found on most farms, where theft of this dangerous chemical is common.¹⁵² Following the success of pseudoephedrine restriction laws, two states have proposed new bills regarding anhydrous ammonia, and Montana has an existing law requiring locks on anhydrous ammonia tanks.¹⁵³

Pseudoephedrine has been meth producers' biggest target¹⁵⁴ and ephedrine and pseudoephedrine have been obtained by meth cooks and addicts in a variety of ways over the years.¹⁵⁵ Most local cooks and users accumulate the needed pseudoephedrine by merely going to retail stores to purchase or shoplift hundreds of packs of cold medications—a process known as “smurfing.”¹⁵⁶ Bigger operators obtain bulk shipments of pseudoephedrine cold medicine from corrupt domestic pharmaceutical distributors.¹⁵⁷ At the highest levels—Mexican Cartel production—pseudoephedrine is purchased in bulk directly from international manufacturers, or the Cartels redirect their country's legitimate pseudoephedrine imports for their own operations.¹⁵⁸ Only nine manufacturers

147. NSDAP, *supra* note 10, at 32; INCSR 2006, *supra* note 74. “Essential” chemicals are those used in refining coca and opium into cocaine and heroin; they usually do not remain in the final product.

148. INCSR 2006, *supra* note 74.

149. *Id.*

150. *See* NSDAP, *supra* note 10, at 32.

151. *Id.* Other precursor chemicals listed by the government are: red phosphorous (widely used in explosives and fireworks), hypophosphorous acid (used in the formulation of pharmaceuticals), lithium metal (used in some anti-depressant drugs), hydriodic acid, iodine crystals, and phenylpropanolamine (a decongestant similar to pseudoephedrine).

152. *See* John Shultz, *Additive Would Make Fertilizer Almost Useless to Meth Cooks*, KANSAS CITY STAR, Oct. 20, 2006.

153. *See* S.B. 2009, 60th Legis. Assem., 2007 Sess. (N.D. 2007); H.B. 81, Gen. Assem., Reg. Sess. (Ky. 2007); MONT. CODE ANN. § 80-10-503 (2005).

154. *See* NDTA 2007, *supra* note 20.

155. INCSR 2006, *supra* note 74.

156. Jefferson, *supra* note 5.

157. Steve Suo, *Lobbyists and Loopholes*, OREGONIAN, Oct. 4, 2004 at A01.

158. Suo, *supra* note 22.

in the world produce pseudoephedrine, which has made targeting incoming pseudoephedrine relatively easy.¹⁵⁹ Smurfing, however, is the impetus behind the proliferation of pseudoephedrine restriction laws across the nation.¹⁶⁰

Since 2004, forty-four states have implemented retail sales restrictions of ephedrine and pseudoephedrine products.¹⁶¹ Legislators finally realized that cutting off access to pseudoephedrine effectively and permanently cripples local domestic meth manufacturing operations.¹⁶² Some states had been regulating precursor chemicals prior to the meth explosion.¹⁶³ As early as 1993, eighteen states used some type of precursor chemical tracking regulation for narcotics.¹⁶⁴ But many of these laws did not include the over-the-counter medications, like Sudafed, that contain the precursor chemicals to meth.¹⁶⁵

Oklahoma passed the first state legislation in the nation establishing strict guidelines and regulations for the sale of pseudoephedrine medications.¹⁶⁶ Passed in 2004, Oklahoma's law quickly caught the attention of other states, many of whom have modeled their own laws after it.¹⁶⁷ The statute created sweeping changes in Oklahoma¹⁶⁸ and added pseudoephedrine products in tablet form to the Schedule V class of drugs regulated by the Oklahoma Bureau of Narcotics and Dangerous Drugs.¹⁶⁹ Common cold medicines are now in effect considered the same degree narcotic as cocaine or heroin.¹⁷⁰ The statute created the following new restrictions on pseudoephedrine:

a. [Pseudoephedrine] shall be dispensed, sold, or distributed only by, or under the supervision of, a licensed pharmacist or a registered pharmacy technician, and

159. *Suo, supra* note 67, at AO1.

160. *See generally* Jefferson, *supra* note 5.

161. NMTA 2007, *supra* note 137, at 1.

162. *See generally* ONDCP FACT SHEET, *supra* note 11; 151 CONG. REC. S9997 (daily ed. Sept. 14, 2005) (statement of Sen. Frist); *Suo, supra* note 67, at AO.

163. *See* PRESIDENT'S COMMISSION ON MODEL STATE DRUG LAWS, MODEL STATE CHEMICAL CONTROL ACT (2007), <http://www.natlalliance.org/pdfs/v3b%20model%20state%20chemical%20control%20act.pdf>.

164. *Id.* at B37.

165. *Id.* (This is not surprising, however, considering meth at this point was still a lesser known and used narcotic. Legislators simply did not anticipate the evolution of meth production using pseudoephedrine to reach its current levels.)

166. DePhillips & Sharkey, *supra* note 98.

167. *Id.*

168. *See* OKLA. STAT. tit. 63, § 2-212 (2006).

169. *Id.*

170. *See* OKLA. STAT. tit. 63, § 2-401 (2006).

b. any person purchasing, receiving, or otherwise acquiring any compound, mixture, or preparation shall produce a driver license or other state-issued identification card and shall sign a written log, receipt, or other program or mechanism approved by the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, showing:

- (1) the date of the transaction,
- (2) name of the purchaser,
- (3) driver license number or state-issued identification number and state of residence of the purchaser,
- (4) name and initials of the pharmacist or pharmacy technician conducting the transaction,
- (5) the product being sold, and
- (6) total quantity, in grams or milligrams, of pseudoephedrine purchased.

No person shall purchase, receive, or otherwise acquire more than nine grams of any product, mixture, or preparation within any thirty-day period. Provided, the requirements of this subsection shall not apply to any quantity of such product, mixture or preparation dispensed pursuant to a valid prescription.¹⁷¹

After seeing a fifty percent reduction in meth lab activity in Oklahoma the year after this legislation passed, many states quickly moved into action looking for similar results, and passed their own legislation.¹⁷² Oklahoma's law has been considered the exemplar.¹⁷³ Many states expressly modeled their statute based upon the provisions of Oklahoma's groundbreaking legislation.¹⁷⁴ However, differences in the various states' statutes remain, with some statutes producing more successful results than others.¹⁷⁵

For example, in 2005 Minnesota enacted its own pseudoephedrine restrictions.¹⁷⁶ Minnesota's statute, however, is more restrictive than Oklahoma's statute.¹⁷⁷ The Minnesota law allows for a maximum acquisition of six grams of pseudoephedrine-products within any thirty-day period, as opposed to Oklahoma's, which allows nine grams.¹⁷⁸ Minnesota's law, unlike

171. OKLA. STAT. tit. 63, § 2-212 (2006).

172. *Cooked Up Menace*, *supra* note 14, at 2519-20.

173. *See generally Cooked Up Menace*, *supra* note 14; DePhillips & Sharkey, *supra* note 96.

174. *See generally Cooked Up Menace*, *supra* note 14.

175. DePhillips & Sharkey, *supra* note 96.

176. *See* MINN. STAT. § 152.02 (2007).

177. *Id.*

178. *See* MINN. STAT. § 152.02 (2007) (finding six grams equals about two packages of cold medicine); OKLA. STAT. tit. 63, § 2-212 (2006); Paulose & Campion, *supra* note 127.

Oklahoma's, requires the purchaser to be at least eighteen years old.¹⁷⁹ Kentucky follows Oklahoma in allowing purchase of up to nine grams per thirty day period.¹⁸⁰ Still, Kentucky's statute goes even further than Oklahoma's, deeming possession of more than nine grams in any thirty day period as constituting "prima facie evidence of the intent to use the drug product or combination of drug products as a precursor to methamphetamine or other controlled substance."¹⁸¹ This seems especially strict when contrasted to a recent Oregon decision where the court held that stealing and possessing a large quantity of pseudoephedrine was not sufficient to support a finding that defendant intended to manufacture methamphetamine.¹⁸²

Even more diversity exists among the states' respective pseudoephedrine laws. While Minnesota's statute explicitly states that no prescription is necessary for purchase of pseudoephedrine, Oregon's 2005 law requires exactly that.¹⁸³ Oregon remains the only state to require a prescription for any pseudoephedrine medicine, thus making it one of the strictest statutes.¹⁸⁴ Alabama's statute is likewise very encompassing in its restrictions.¹⁸⁵ Among other things, it disallows any sale of pseudoephedrine product "loose in bottles," requires sales in only blister packs from behind the counter, and limits the thirty day possessory quantity to six grams.¹⁸⁶ Alabama, Minnesota and Alaska are the only three states to allow as few as six grams per month.¹⁸⁷

Nearly all states require the purchaser to show identification and sign a logbook, which usually requests the purchaser's name, date of the transaction, and quantity purchased.¹⁸⁸ Only ten states have elevated pseudoephedrine to a Schedule V controlled substance.¹⁸⁹ Maine allows only sixty milligrams of

179. See MINN. STAT. § 152.02 (2007); OKLA. STAT. tit. 63, § 2-212 (2006).

180. KY. REV. STAT. § 218A.1437 (2005).

181. *Id.*

182. See *State v. Moreno*, 104 P.3d 628 (Or. Ct. App. 2005).

183. See MINN. STAT. § 152.02 (2007); OR. REV. STAT. § 475.973 (2005).

184. OR. REV. STAT. § 475.973 (2005).

185. See ALA. CODE § 20-2-190 (2005) (showing that the Alabama statute also includes a clause that after 2009 *no* pseudoephedrine will be allowed in the state).

186. *Id.* Blister packages are those where the individual pills are in separate plastic bubbles on the same plastic sheet. Eleven other states also require this.

187. NATIONAL ALLIANCE FOR MODEL DRUG LAWS, OVERVIEW OF STATE LEGISLATIVE/REGULATORY RESTRICTIONS ON OVER-THE-COUNTER SALES/PURCHASES OF PRODUCTS CONTAINING PSEUDOEPHEDRINE 5 (2006), <http://www.natlalliance.org/pdfs/Pseudoephedrine%20Products%20Overview%20-%20November%202006%20Revised%20Version.pdf> (noting that Illinois, Iowa and Wisconsin allow seven and a half grams while the rest of the country allows nine grams).

188. *Id.* at 4-5.

189. *Id.* at 2; see also 21 U.S.C. § 812 (2007). The Federal and state governments use a "Scheduling" classification system in regulating controlled substances. The Controlled Substances

pseudoephedrine per package, the lowest quantity among all states.¹⁹⁰ Some states even require that pseudoephedrine be located behind the counter away from the reach of the general public.¹⁹¹

Other states have tried different deterrence methods, focusing their efforts on criminal punishment regarding pseudoephedrine regulation and control.¹⁹² South Carolina, for example, passed legislation focused almost solely on creating harsh penalization regarding meth manufacture.¹⁹³ New York, Tennessee and Kansas have enacted similar laws making meth crime punishment more severe.¹⁹⁴ However, precursor chemical control remains the most effective method in fighting meth.¹⁹⁵

While pseudoephedrine legislation and regulation has indeed proved effective, it has also been far from perfect, and must be continually scrutinized in order to remain optimally effective.¹⁹⁶ Resourceful and sometimes desperate meth addicts and cooks have found loopholes within the current trend of meth-related lawmaking.¹⁹⁷ California's initial attempt at regulating pseudoephedrine represents some of the growing pains experienced in the creation of the new laws—it left a gaping loophole in its law.¹⁹⁸ While the law did monitor the purchase of pseudoephedrine through the use of logbooks, identification, and

Act created five schedules, with number one (I) representing the hardest drugs. Each category contains certain qualifications, i.e. schedule one requires that the drug has a high potential for abuse, has no currently accepted medical use in treatment in the United States, and that there is a lack of accepted safety for use of the drug or other substance under medical supervision. Most states' versions mirror the federal schedule. Schedule five, the category in which pseudoephedrine falls, requires the drug or other substance to have a low potential for abuse, to have a currently accepted medical use in treatment in the United States, and that abuse of the drug or other substance may lead to limited physical dependence or psychological dependence.

190. ME. REV. STAT. tit. 32, § 13796 (2007). Most states allow three grams per package.

191. MO. ANN. STAT. § 195.417 (2006).

192. *See* S.C. CODE § 44-53-375 (2005).

193. *Id.*

194. *See* TENN. CODE § 55-50-506 (2006) (providing more opportunities for meth convictions); N.Y. PENAL LAW §§ 220.70-76 (2007) (making possession of precursors a potential Class E Felony); KAN. STAT. § 65-7006 (2005) (setting bail for a meth-related arrest at \$50,000).

195. *See generally* NMTA 2007, *supra* note 137.

196. *See generally* NDTA 2007, *supra* note 20, at 39.

197. Maria Hegstad, *Meth Abusers Finding a Way*, LAS VEGAS REVIEW-JOURNAL, June 24, 2006, at 9B.

198. Press Release, Dianne Feinstein, Senator Feinstein, Colleagues Seek to Close Methamphetamine 'Blister Pack Loophole', (Oct. 22, 2003) <http://feinstein.senate.gov/03Releases/r-meth.htm>.

quantity requirements, it applied only to bottled medicines and allowed unlimited purchase of blister packs.¹⁹⁹

One problem facing the laws, no matter how well-written, is getting the individual stores and pharmacies to comply and follow strict²⁰⁰ procedure.²⁰¹ Typically, pharmacies are diligent in applying pseudoephedrine regulations, but convenience stores have been less scrupulous in monitoring sales of the medicine.²⁰² Smaller stores provide meth cooks with a safe alternative method of obtaining precursors by not keeping proper sales records via logbooks and selling more than the legal limit.²⁰³

Although the new laws have reduced smurfing, they have not eliminated it entirely.²⁰⁴ Some meth-makers are overcoming the restrictions by simply buying the legal amount of the drug from a plethora of different stores in a variety of locations.²⁰⁵ One pharmacist noted that if “[meth producers] are intent on getting it, they are going to get it. If they have to go to ten pharmacies to get the quantity they used to get at one or two, that’s what they are going to do.”²⁰⁶ Many travel to far off distances where their identities are unknown.²⁰⁷ Fake identification cards have been problematic to logbook requirements, as meth producers will go to twenty different stores and use five different identification cards to purchase the drugs.²⁰⁸

Another problem arose because not all states passed precursor chemical restriction laws, which resulted in what is known as “crime displacement.”²⁰⁹ For example, upon passing of the strict Oklahoma precursor laws, meth-related

199. *Id.* Apparently some believed meth cooks would not bother with blister-packaged pseudoephedrine. However, this was quickly debunked by findings of industrial “deblistering” machines at meth lab sites, machines that quickly and in large amounts remove pills from blister packs. The loophole has since been fixed. See also CAL HEALTH & SAFETY CODE § 11100 (West 2007).

200. See Lee Peterson, *Cold Remedies Go Out of Reach*, DAILY BREEZE (Torrence, Cal.), Sept. 30, 2006, at A1.

201. Andrea Zimmerman, *Law Hasn’t Slowed ‘Pill Shoppers’*, SPRINGFIELD STATE JOURNAL-REGISTER, May 27, 2006, at 1.

202. *Id.* (showing that in Illinois 96 percent of pharmacies complied with state precursor chemical regulation but only 12% of convenience stores did).

203. *Id.* (finding that, because of this, Illinois has yet to see a comparable reduction in meth activity when compared to states like Oregon and Oklahoma).

204. Hegstad, *supra* note 198, at 9B.

205. *Id.*

206. Petersen, *supra* note 201, at A1.

207. *Id.*

208. Hegstad, *supra* note 198, at 9B.

209. See Doron Teichman, *The Market for Criminal Justice: Federalism, Crime Control, and Jurisdictional Competition*, 103 MICH. L. REV. 1831 (2005) (elaborating on the phenomenon of crime displacement and its effects); see also DePhillips & Sharkey, *supra* note 96.

criminal activity in Kansas and Texas rose immediately and drastically.²¹⁰ Worse, meth producers in a place with restrictions like Oklahoma could simply drive to another state that did not have such laws, purchase all the necessary pseudoephedrine, and transport it back to their home state.²¹¹ However, one benefit of the lack of uniformity among the states in restrictions is that it has forced other states to create similar legislation regulating precursor chemicals.²¹²

Even where a store's logbook records legitimate identities, communication between the stores regarding a person's purchase activity has sometimes proved difficult and ineffective, thus requiring the authorities to physically go from store to store comparing books.²¹³ In some places, the police are apparently not checking stores' logs.²¹⁴ Oklahoma, again leading the charge in the meth war, has launched a database that claims to "close the last loophole for methamphetamine production."²¹⁵ The database seeks to solve the previous logbook problems by tracking purchases in real time, electronically linking pharmacies, and automatically notifying the authorities when a purchase exceeds the legal limit.²¹⁶

Lost in this convoluted array of new laws and regulations, and the efforts to effectively enforce them, is the legitimate cold medicine consumer.²¹⁷ Some cold and allergy sufferers simply looking for relief have complained that the new laws and procedures involved in buying products make them feel uncomfortable

210. *Id.*

211. DePhillips & Sharkey, *supra* note 96 (finding that the problem has generally been remedied through more states passing legislation and the federal Combat Methamphetamine Epidemic Act - to be discussed below); see also Tony Thornton, *State Tribe Closes Meth Loophole: Legislation Mirrors Oklahoma's Drug Law*, OKLAHOMAN, Nov. 24, 2006, at 19A (showing a similar problem occurred regarding tribal sovereignties who had not passed precursor chemical laws—meth cooks sought cover and pseudoephedrine availability on tribal lands).

212. Teichman, *supra* note 210.

213. Josh Rabe, *Database Attempts to Close Loophole in Meth Production*, DAILY OKLAHOMAN, Oct. 3, 2006.

214. Editorial, *City Rules on Meth Ingredient Aren't Worth the Paper They're Written on*, TRIBUNE (Mesa, Ariz.), Feb. 1, 2007 (Phoenix officials admitted that time spent inspecting logs has not yielded a single meth-related arrest—apparently resulting from a lack of time inspecting the logs).

215. Rabe, *supra* note 214.

216. *Id.*; see also Owen Covington, *Methamphetamine Law Challenged: Statute Gives Police Access to Pharmacy Logs*, MESSENGER-INQUIRER (Owensboro, KY), Sept. 29, 2006. (discussing how the law has come under constitutional attack. In Kentucky, a woman charged under the new meth law is challenging the use of the logbook that led to her arrest. She challenges the law on constitutional grounds and claims the logbooks are a violation of the 4th Amendment's search and seizure clause.)

217. See generally Christine Gorman, *Who Moved My Sudafed?*, TIME, Oct. 9, 2006, at 81.

and inconvenienced.²¹⁸ Many also feel revealing their drivers license data to pharmacy logs make them more vulnerable to identity theft.²¹⁹ In addition, customers who are not aware of the new rules are often confused as to why they can no longer find their cold and allergy medication in its normal location.²²⁰ Even pharmacists complain that the new rules have placed a hardship on their business operation.²²¹

Perhaps the biggest drawback to the pseudoephedrine restrictions is that cold medication alternatives have shown to be far less effective for cold and allergy sufferers.²²² Pseudoephedrine has long been the medicine of choice and was found in some 200 different cold and allergy relief products on the market.²²³ While pseudoephedrine's most common substitute, phenylephrine, poses no hazard as a precursor chemical to illegal narcotics, users have complained it does not work as well as pseudoephedrine, and one study even claimed phenylephrine "was no better than a placebo at relieving nasal congestion."²²⁴ However, in light of the success of state legislation in reducing domestic meth production, any such drawbacks occurring due to the compendium of legislation and policy passed by the majority of states over the past three years are, as one official put it, "a small inconvenience for a major public safety benefit."²²⁵

218. Andrew Shain, *Cold Medicines on Shelves Called Weaker*, CHARLOTTE OBSERVER (Charlotte, NC), Dec. 17, 2006 (quoting one woman who complained that she felt "like a crook, like I'm going to cook some meth."); see also Cathleen F. Crowley, *Cold Remedies Go Behind Counter*, ALBANY TIMES UNION, Oct. 6, 2006, at B6 (explaining that an allergy or cold sufferer seeking pseudoephedrine must also be sure to get to the pharmacy before it closes, otherwise they would be out of luck for the night).

219. Shain, *supra* note 219.

220. Peterson, *supra* note 201, at A1.

221. *ID Now Needed to Purchase Cold, Allergy Drugs*, HOUSTON CHRONICLE, Sept. 30, 2006, at A8. *But see* Peterson, *supra* note 201, at A1. (noting that as one pharmacist points out, the law helps the pharmacist deal with frustrated customers. Pharmacists can now simply blame federal law as the reason for not selling the drug in bulk to buyers, rather than store or a pharmacist's personal policies.)

222. Julie Anderson, *Substitutes for Restricted Cold Pills Pack Less Punch*, OMAHA-WORLD HERALD, Jan. 27, 2007.

223. Shain, *supra* note 219 (showing that pseudoephedrine is now found in only about 30 products).

224. Gorman, *supra* note 218, at 81; see also Anderson, *supra* note 223 (showing that only about thirty-three percent of phenylephrine is absorbed by the body when ingested as compared to ninety percent of pseudoephedrine; and phenylephrine must be taken every four hours, compared with every six hours for pseudoephedrine).

225. Shain, *supra* note 219.

2. The Federal Response

The federal government addressed methamphetamine much earlier than any state when it first attempted to regulate precursor chemicals in the mid 1980s, but retreated in the face of lobbying pharmaceutical companies.²²⁶ Nearly ten years later the federal government again attempted to address the meth problem by enacting the Comprehensive Methamphetamine Control Act of 1996.²²⁷ This law enabled the government to regulate retail sales of precursor chemicals.²²⁸ Its restrictions, however, were far too lenient for any real regulation of precursor chemicals to occur.²²⁹ For example, it limited the amount of pseudoephedrine in a single purchase to twenty-four grams, eight times the amount currently allowed by most states and federal law.²³⁰ Furthermore, until 2005, when the meth problem became an epidemic, federal officials had been hesitant to get involved, leaving the meth problem up to state leadership.²³¹ This led to the patchwork of state laws and the problems arising from a lack of consistent regulation.²³²

The lack of congruity among the states regarding precursor regulation and the problems resulting therein have been alleviated by the groundbreaking federal legislation known as the Combat Methamphetamine Epidemic Act ("Combat Meth Act").²³³ The anti-meth legislation was signed into law by President Bush in early March 2006.²³⁴ After witnessing the states' general

226. Steve Suo & Jim Barnett, *Congress OKs Landmark Restrictions to Fight Meth*, OREGONIAN, Mar. 3, 2006, at A01; see also Suo, *supra* note 158 at A01 (noting the DEA's knowledge of pseudoephedrine as a dangerous precursor chemical in need of regulation as early as 1986, but regulation was stalled by an intense counterattack by the pharmaceutical industry, fearful of the loss of revenue that regulating pseudoephedrine would create.) See also DePhillips & Sharkey, *supra* note 96 (explaining that the pharmaceutical industry faces a bigger problem than just a loss of revenue - lawsuits. Individuals who have suffered in some way from methamphetamine have begun to bring civil suits against big pharmaceutical companies such as Pfizer, claiming these companies knew their products were being used to make meth but took no action. A much bigger suit involves an action brought by the Attorney General of Minnesota, who claims the pharmaceutical companies should reimburse the state's costs of battling methamphetamine.).

227. Comprehensive Methamphetamine Control Act of 1996, Pub. L. No. 104-237, 110 Stat. 3099 (1996) [hereinafter Meth Control Act].

228. *Id.* § 401.

229. *Id.* This is exhibited by the lack of reduction in meth-related problems after its enactment.

230. *Id.*

231. *Cooked Up Menace*, *supra* note 14, at 2518.

232. See DePhillips & Sharkey, *supra* note 96.

233. *Id.* As discussed earlier, not all states have passed precursor laws. Consequently, meth producers simply go to a state with no precursor regulation to purchase pseudoephedrine, and then transport it back to their home state for production. See also Combat Methamphetamine Epidemic Act of 2005, Pub. L. No. 109-177, §§ 711-16, 120 Stat. 192 (2006) [hereinafter Combat Meth Act].

234. *Politics and Policy Meth: Bush Signs Bill with Provisions to Fight Distribution*, 10 AMERICAN POLITICAL NETWORK 9, Mar. 13, 2006.

success in fighting domestic meth production, the government's new law seeks to make that success uniform across the nation.²³⁵

The legislation is modeled after the initiatory Oklahoma law,²³⁶ and comes twenty years after the government's first attempt to control precursor chemicals.²³⁷ The Act comes packaged as a provision of the USA Patriot Reauthorization Act.²³⁸ The Combat Meth Act is noted as "the toughest, most comprehensive anti-meth bill ever introduced in the Congress, much less passed."²³⁹ The government declares the goal of the new law "is to provide legitimate consumers the access to the medicine they need, while cutting off the meth cooks from the ingredients they must have to cook meth."²⁴⁰

Like the Oklahoma law and most other states' respective laws, the Combat Meth Act moves all pseudoephedrine products behind the counter.²⁴¹ It also requires signing a logbook to record all purchase activity and calls for purchasers to show a valid state issued identification card.²⁴² The Act specifically requires retailers to keep personal information contained in the logbooks for a minimum of two years.²⁴³ The law does not require a prescription for pseudoephedrine but limits how much a person can buy to 9 grams a month and 3.6 grams in a single day.²⁴⁴

Furthermore, the Combat Meth Act provides a blanket, uniform regulation across the nation; states cannot opt out of its coverage.²⁴⁵ One official even called uniform restriction on pseudoephedrine "the single greatest impact we could have on reducing meth abuse."²⁴⁶ It is the first time the government will

235. Suo & Barnett, *supra* note 227, at A01.

236. *Talent-Feinstein Combat Meth Legislation to Pass Senate, Expected to Become Law*, SANTA MONICA CHRON., Mar. 2, 2006 [hereinafter Talent-Feinstein] (noting that the law was spearheaded by Senators Jim Talent (R-Mo.) and Dianne Feinstein (D-Cal.)); *see also* OKLA. STAT. tit. 63, § 2-212 (2006).

237. Suo, *supra* note 158, at A01.

238. USA Patriot Improvement and Reauthorization Act of 2005, Pub. L. No. 109-177, 120 Stat. 192 (2006). The USA Patriot Act was originally passed in 2001 as a tool to fight terrorism in reaction to the September 11th attacks in New York City.

239. Talent-Feinstein, *supra* note 237 (explaining that the bill has been embraced and supported across the board. It was backed by the bipartisan Congressional Meth Caucus, and passed the Senate 89-10. It was also pushed heavily by law enforcement agencies.)

240. *Id.*

241. Combat Meth Act, *supra* note 234 (even single dose packages must be behind the counter).

242. *Id.*

243. *Id.*

244. *Id.* (including medicines containing regular ephedrine and phenylpropanolamine); *see also* Suo & Barnett, *supra* note 227, at A01 (explaining that nine grams is the equivalent to about 300 pills, which should be plenty for the average cold or allergy sufferer).

245. Combat Meth Act, *supra* note 234.

246. 151 CONG. REC. S9997, S9998 (daily ed. Sept. 14, 2005) (statement of Sen. Frist).

have a national standard for regulating precursor chemicals.²⁴⁷ States with weak or no precursor regulations in place will immediately feel the impact of the federal legislation.²⁴⁸ A state such as California that does not require the showing of identification upon purchasing the medicine will have to adopt the stricter federal law that does require identification.²⁴⁹ However, the federal law will not override any state law that is stricter, such as Oregon's law requiring a prescription for pseudoephedrine.²⁵⁰

The Combat Meth Act's provisions, however, are generally far more expansive in reach than any single state's statute.²⁵¹ The Act gives the Attorney General the authority to establish production quotas for precursor chemicals.²⁵² The law also imposes a duty on sellers of pseudoephedrine products to train personnel on its new restrictions, and submit a report of the training to the Attorney General.²⁵³ It provides nearly \$100,000,000 per year over the next five years to enforcement agencies to fight meth²⁵⁴ and imposes tougher criminal penalties for meth producers and traffickers by creating a new meth precursor, Scheduled Listed Chemicals Section in the Controlled Substances Act.²⁵⁵ The Act also imposes increased sentences for those who are caught manufacturing meth at a location where a person under eighteen resides, as well as lowers the threshold for those who could be considered "kingpin" traffickers.²⁵⁶ Finally, the Act enhances international and environmental regulations of meth manufacturing and trafficking by requiring extensive procedures and reporting

247. Suo & Barnett, *supra* note 227, at A01.

248. *Id.*

249. *Id.* See also CAL. HEALTH & SAFETY CODE § 11100 (West 2006).

250. Compare Combat Meth Act, *supra* note 234; and OR. REV. STAT. § 475.973 (2005); see also Suo & Barnett, *supra* note 227, at A01.

251. See Combat Meth Act, *supra* note 234.

252. *Id.*

253. *Id.* (explaining that in response to this provision of the Act, the National Association of Chain Drug Store Foundation has created and implemented a new training program called "MethGuard Combat Methamphetamine Epidemic Act of 2005." The initiative prepares pharmacists and retail employees to perform the new duties and procedures under the new federal legislation. Employers must certify completion of the training to the DEA.) See *New Program Trains Pharmacy Staff on Combat Methamphetamine Epidemic Act: Drug Abuse*, DRUG WEEK, June 30, 2006, available at <http://www.medicalnewstoday.com/medicalnews.php?newsid=46234> (last visited Sept. 8, 2007).

254. Compare Combat Meth Act, *supra* note 234; and Talent-Feinstein, *supra* note 237.

255. Combat Meth Act, *supra* note 234; see also 21 U.S.C. § 812 (2007).

256. Methamphetamine Epidemic Elimination Act, H.R. 3889, 109th Cong. (2006) [hereinafter Meth Elimination Act]; R. Robin McDonald, *Patriot Act New Tool in Federal Drug War but Defense Lawyer Frets the Law 'Has Great Potential for Abuse,'* FULTON COUNTY DAILY REP. (Fulton County, GA), Mar. 21, 2006.

regarding all exports and imports of pseudoephedrine, as well as all meth lab activity discovered by local and federal enforcement.²⁵⁷

While the Combat Meth Act is a huge step forward in the national fight against meth, like its counterpart state laws, it also has been criticized.²⁵⁸ Its provisions are sweeping, yet the Act does not create a federal database to track the sale of pseudoephedrine, which would tremendously help plug the loopholes left in the law.²⁵⁹

Moreover, attaching the new federal meth law to the Patriot Act may leave room for abuse.²⁶⁰ One lawyer fears the Act will be used to target foreign nationals operating within the law by selling products such as pseudoephedrine or other precursors.²⁶¹ Oregon democrat Ron Wyden, one of the few who voted against the bill, said Congress chose to “play politics” by attaching it to the Patriot Act.²⁶² Objections have come from the State Department as well.²⁶³ Officials frowned on provisions that would potentially withdraw aid to Mexico and other countries involved in the pseudoephedrine trade.²⁶⁴ This was seen as harming the long-forged and sometimes tenuous relationship between the U.S. and Mexico.²⁶⁵

Some members of the House advocated a different approach to the meth epidemic in the form of the bill, “Methamphetamine Epidemic Elimination Act.”²⁶⁶ Rather than just putting pseudoephedrine behind the counter, this bill focused on targeting foreign suppliers of methamphetamine and U.S. import of pseudoephedrine,²⁶⁷ but was never passed into law.²⁶⁸

257. Meth Elimination Act, *supra* note 257 (explaining that the Department of Transportation and the Environmental Protection Agency must issue reports to Congress regarding all byproduct problems caused by meth production.).

258. Crowley, *supra* note 219.

259. Combat Meth Act, *supra* note 234.

260. McDonald, *supra* note 257.

261. *Id.* (explaining that attorney McCracken Poston has so far “defended three foreign-born convenience store operators who were wrongly identified in a federal methamphetamine sweep in North Georgia.”).

262. Suo & Barnett, *supra* note 227, at A01.

263. *Id.*

264. See *Counternarcotics Strategies in Latin America: Hearing Before the Subcomm. on Western Hemisphere of H. Comm. on International Relations*, (2006) (testimony of Anne. W. Patterson, Assistant Secretary, United States Dept. of State).

265. *Id.*; see also Interview by FRONTLINE with Steve Suo, Journalist, Oregonian (July 7, 8, and 11, 2005), available at <http://www.pbs.org/wgbh/pages/frontline/meth/interviews/suo.html> (last visited Sept. 20, 2007).

266. Meth Elimination Act, *supra* note 257; see Christopher P. DePhillips & Brian P. Sharkey, *Will Congress Follow the Lead of State Legislatures and Force the Pharmaceutical Industry to Counteract the Methamphetamine Epidemic?*, METRO. CORPORATE COUNSEL, Nov. 2005.

267. Meth Elimination Act, *supra* note 257.

Still, Senators Feinstein and Talent, as sponsors of the Combat Meth Act, admit this federal legislation will certainly not serve as an end-all to the meth epidemic, but rather as an important and powerful first step in the battle against this drug.²⁶⁹ One U.S. Senator commented that “[t]he Combat Meth Act is a tremendous step in the right direction, but we need to go further. We need legislation that will provide a comprehensive approach to the meth epidemic.”²⁷⁰ While the Act may be the most powerful, it is certainly not the government’s only meth-inspired initiative.

3. More is Better

The FY 2006 Department of Justice Appropriations Act will likely be another useful and effective governmental legislative tool.²⁷¹ This law directs the Attorney General to establish a Methamphetamine Task Force, comprising of DEA agents, attorneys, and analysts who will collect intelligence from the various governmental investigatory agencies.²⁷² The task force will then analyze trafficking trends and precursor distribution patterns and make recommendations on courses of actions to be taken regarding meth enforcement.²⁷³ Such a law will go a long way in remedying any shortcomings of the Combat Meth Act and reflects the government’s commitment to attacking the meth epidemic from all angles.²⁷⁴

Furthermore, the Methamphetamine Trafficking Prevention Act of 2006 (MTPA) was introduced to the Senate in August 2006.²⁷⁵ This sweeping legislation specifically targets the flow of meth and precursor chemicals over the U.S. border.²⁷⁶ While state legislation and the Combat Meth Act have driven most meth producers to foreign locales, the MTPA was drafted to directly focus on the producers who continue to smuggle meth into the U.S, despite the existing

268. *Id.*

269. Talent-Feinstein, *supra* note 237.

270. Press Release, United States Senate, Senator Biden Issues Statement in Observance of National Methamphetamine Awareness Day (Nov. 30, 2006), *available at* <http://biden.senate.gov/newsroom/details.cfm?id=266181&&> (last visited Sept. 24, 2007) [hereinafter Biden].

271. *See* Science, State, Justice, Commerce, and Related Agencies Appropriations Act of 2006, Pub. L. No. 109-108, 119 Stat 2290 (2005) [hereinafter Appropriations Act].

272. *Id.* at 2304; *see also* Rannazzisi, *supra* note 86.

273. Rannazzisi, *supra* note 86.

274. Appropriations Act, *supra* note 272; *see generally* Rannazzisi, *supra* note 86.

275. Methamphetamine Trafficking Prevention Act of 2006, S. 3825, 109th Cong. (2006) [hereinafter MTPA].

276. *Id.*

laws.²⁷⁷ Among other provisions, the MTPA will improve border resources and technology, authorize the deployment of trace chemical detectors, impose new requirements on trade officials dealing with precursor chemicals, and require the DEA to train foreign law enforcement regarding meth trafficking.²⁷⁸

Another function of the federal government in the fight on meth is the bipartisan Senate Anti-Meth Caucus which has been operating since 2005.²⁷⁹ This group of senators works closely “to formulate a cohesive, nationwide strategy against methamphetamine,” and continues to be a valuable asset in the efforts to combat meth.²⁸⁰ Most importantly, for the immediate future more federal legislation during the current presidency seems imminent, as the Bush Administration “strongly supports the development of Federal legislation to combat methamphetamine,” which is exactly what this fight needs for continued success.²⁸¹

IV. A VIEW FROM THE OTHER SIDE: MEXICO’S RESPONSE

A. Mexican Meth Laws Compared

1. The Root of the Problem

At a customs building in Mexico City’s International Airport, a forklift carefully moves pallet after pallet of pseudoephedrine onto a delivery truck destined for pharmaceutical companies throughout Mexico.²⁸² Three tons of the bulk cold medicine is loaded onto the truck.²⁸³ This massive load of pseudoephedrine is stolen fewer than one hundred yards from the airport gate.²⁸⁴ Suspiciously deciding to wait overnight before delivering the load, the truck driver apparently left the truck in a completely unsecured area.²⁸⁵

277. Press Release, Office of Senator Conrad Burns, *Sen. Burns Introduces Meth Trafficking Prevention Bill*, (Aug. 4, 2006) available at http://src.senate.gov/public/index.cfm?FuseAction=PenPad.View&ContentRecord_id=2783&Issue_id=9&Senator_id=0&State_id=0&CFID=47113699&CFTOKEN= (last visited October 22, 2007).

278. *Id.*

279. See Press Release, United States Senate, U.S. Senators Unveil New Anti-Meth Caucus, (Nov. 16, 2005), available at <http://biden.senate.gov/newsroom/details.cfm?id=249046> (last visited October 20, 2007).

280. *Id.*

281. ONDCP FACT SHEET, *supra* note 11.

282. *Suo*, *supra* note 22.

283. *Id.*

284. *Id.* (explaining that three tons of pseudoephedrine powder is enough to produce eighteen million doses of meth, which becomes a profit of hundreds of millions of dollars.).

285. *Id.*

Access to large quantities of precursor chemicals like pseudoephedrine has undoubtedly been Mexico's biggest problem.²⁸⁶ Compounding the problem, bulk quantities of pseudoephedrine have been far more available in Mexico over the past few years, especially in response to the shift in production to Mexico.²⁸⁷ Mexicans have taken advantage of the drastic reduction in domestic mom and pop labs across the United States by seizing control of existing trafficking operations, resulting in a burst of meth-related activity in Mexico as well as a dramatic influx of superlabs.²⁸⁸

The Mexican federal government has reacted with new meth-related laws of its own, many mirrored after the U.S. versions.²⁸⁹ But these laws have come only after astronomical amounts of meth have been produced and trafficked in the past few years.²⁹⁰ Mexico's eye-opening practice of pseudoephedrine importation has directly fed this problem.²⁹¹ Between the years 2000 and 2005, Mexican imports of the precursor chemical skyrocketed from 66 tons to 224 tons.²⁹² Mexico's legitimate need of pseudoephedrine for the cold medicine industry is between 90 and 130 tons.²⁹³ Such a drastic increase in pseudoephedrine imports paralleled the general shift in production to Mexico caused by the new, stricter U.S. regulation.²⁹⁴

Not surprisingly, U.S. officials blamed the drastic increase of the imports on illegal diversion of the pseudoephedrine within Mexico.²⁹⁵ The International Narcotics Board has made the same assumptions.²⁹⁶ Mexican producers and drug cartels usually steal the pseudoephedrine, buy large quantities from corrupt Mexican pharmacies, or set up fake companies to buy the drug legitimately from wholesalers.²⁹⁷ Regardless of the method, it has been relatively easy to obtain

286. See generally Steve Suo, *Cutting Off the Pipeline on Bulk Pseudoephedrine*, OREGONIAN, Dec. 3, 2006.

287. *Id.*

288. Marosi, *supra* note 128; see generally NDTA 2007, *supra* note 20.

289. *Counternarcotics Strategies in Latin America, Part I: Hearing Before the Subcomm. on Western Hemisphere of H. Comm. on International Relations*, 109th Cong. (2006) (testimony of Anne W. Patterson, Assistant Secretary, United States Dept. of State) [hereinafter *Counternarcotics Strategies*].

290. See Marosi, *supra* note 128.

291. Suo, *supra* note 22.

292. *Id.*

293. *Id.* (some estimate that the legitimate need is as low as seventy tons).

294. See Marosi, *supra* note 128.

295. Tandy, *supra* note 21.

296. See Suo, *supra* note 287.

297. See Suo, *supra* note 22; see also INCSR 2006, *supra* note 74, at 72 (explaining that the U.S. Government has identified eight general diversion methods traffickers use in obtaining precursor chemicals, most of which Mexican traffickers employ:

pseudoephedrine, especially with Mexico's previously soaring imports making it readily available.²⁹⁸

2. The Mexican Government Reacts

Initially, Mexican officials were hesitant to admit that producers were obtaining the precursor through illegal diversion channels, with one official claiming the "legal market [for pseudoephedrine] is not the main source."²⁹⁹ But the Mexican federal government has made some necessary changes in the face of the problem of pseudoephedrine availability³⁰⁰ and many of the results are promising.³⁰¹

Following the United States, Mexico has enacted laws attempting to regulate and control precursor chemicals with an emphasis on pseudoephedrine.³⁰² The reform in Mexican federal law has been relatively far-reaching.³⁰³ Mexico's primary federal statute concerning this is the *Ley Federal para el Control De Precursores Quimicos* (Federal Law for the Control of Chemical Precursors).³⁰⁴ This law is regulated under the Mexican Federal Commission for the Protection Against Sanitary Risks (CONEPRIS).³⁰⁵

Traffickers extract chemicals, particularly pseudoephedrine, from pharmaceutical preparations. . . : Chemicals are diverted from domestic chemical production to illicit in-country drug manufacture; Chemicals are imported legally into drug-producing countries with official import permits and subsequently diverted; Chemicals are manufactured in or imported by one country, diverted from domestic commerce, and smuggled into drug-producing countries; Chemicals are mislabeled or re-packaged and sold as non-controlled chemicals; Chemicals are shipped to countries or regions where no systems exist for their control; New drugs ("designer drugs") are developed that have physical and psychological effects similar to controlled drugs, but which can be manufactured with non-controlled chemicals; Traffickers manufacture the controlled chemicals they require from unregulated raw materials, a costly and difficult process; and Traffickers use unregulated substitute chemicals with chemical properties similar to regulated chemicals.

298. *Suo, supra* note 287.

299. *Suo, supra* note 22.

300. *See* Counternarcotics Strategies, *supra* note 290.

301. *Id.*

302. *Id.*

303. *Id.*

304. "Ley Federal para el Control de Precursores Quimicos, Productos Quimicos Esenciales Y Maquinas para Elaborar Capsulas, Tabletas Y/O Comprimidos," [Federal Law For The Control Of Precursor Chemicals, Essential Chemical Products and the Plot to Prepare Capsules, Tablets AND/OR Tablets] D.O., 26 de diciembre de 1997 (Mex.) [hereinafter *Ley Federal*].

305. INCSR 2006, *supra* note 74.

The new law now requires “no notice” inspections of pseudoephedrine imports.³⁰⁶ It also authorizes the establishment of a national database to electronically track pseudoephedrine shipments³⁰⁷ and prohibits any shipment over three tons.³⁰⁸ Sales of pseudoephedrine are limited to drug companies, while all other licenses to buy it have been cancelled and middlemen are banned from handling it.³⁰⁹ Another particularly potent provision requires all “pseudoephedrine to be transported in GPS-equipped, police-escorted armored vehicles.”³¹⁰ The results of the new restrictions have been encouraging: imports were reduced forty percent in 2005, which means a drop in illegal diversion occurred as well.³¹¹ Also, 2006 saw a seventy percent decrease in imported pseudoephedrine.³¹²

While the brunt of Mexico’s legislation has primarily targeted its biggest problem—the importation of pseudoephedrine—Mexico has also addressed smurfing problems similar to the ones the U.S. has faced.³¹³ Like the U.S., Mexico has moved pseudoephedrine-containing products behind the counter.³¹⁴ Mexico has also limited individual purchases to nine grams and now requires the products to be sold in blister packs.³¹⁵

In the past, Mexican smurfing problems were not as severe because it was much easier and effective to obtain bulk pseudoephedrine through import diversionary methods.³¹⁶ However, considering Mexico’s strengthened importation regulation of precursor chemicals, producers and traffickers may now turn to smurfing to obtain pseudoephedrine.³¹⁷ Mexico’s laws concerning individual purchases of pseudoephedrine are prone to the same exploitation of

306. *Id.*

307. *Id.*

308. *Id.*

309. *Id.*

310. *Id.*

311. Tandy, *supra* note 21.

312. Steve Suo, *Mexico Halts Meth Chemical at Port*, OREGONIAN, Dec. 14, 2006 (illustrating that Mexico’s total importation of pseudoephedrine dropped to around 70 tons in 2006). *See also* Tandy, *supra* note 21. (explaining that one example of Mexico’s efforts at preventing pseudoephedrine diversion occurred in December 2005 when a shipment of three tons of pseudoephedrine in pill form was seized at the Port of Manzanillo. The pills were hidden among a shipment of some 1,000 electric fans.).

313. *See* Jefferson, *supra* note 5; *see also* Ley Federal, *supra* note 305.

314. *See* HACIA UNA POLITICA FARMACEUTICA INTEGRAL PARA MEXICO 65-66, D.R. Secretaria de Salud (1st ed. 2005) [hereinafter HPFIM].

315. *Id.*

316. *See* Suo *supra* note 287; Ley Federal, *supra* note 305. *See generally* INCSR 2006, *supra* note 74.

317. *See generally* INCSR 2006, *supra* note 74; Suo, *supra* note 287.

loopholes as the U.S. laws were initially.³¹⁸ For example, getting stores and pharmacies in the United States to comply with new restrictions has proved difficult, and achieving this in Mexico will likely be significantly harder considering Mexico's penchant for corruption.³¹⁹ Similar to the United States, Mexico's stores and pharmacies will also certainly face the problems of fake identification cards, and store jumping.³²⁰

3. Are Mexico's Efforts Working Overall?

In focusing its legislation on restricting bulk pseudoephedrine imports, Mexico is allocating its resources wisely. Mexico's superlabs are the source of the majority of the meth coming across the U.S. border.³²¹ Superlabs require large amounts of pseudoephedrine to operate.³²² If the cartels operating superlabs are unable to obtain pseudoephedrine in bulk amounts from illegal import diversion, it is unlikely they could sustain their normal large-scale production by smurfing the precursor chemical.³²³ Indeed, the United States government estimates that past and current superlab production rates cannot be sustained due in part to Mexico's import-restricting legislation.³²⁴

Mexico should not, however, feel overly comfortable with its new laws' effectiveness because the meth business has proved too lucrative for traffickers to abandon it, and they will undoubtedly seek new methods in the face of the new laws.³²⁵ In December 2006, Mexican officials seized a shipment containing nearly twenty tons of pseudoephedrine.³²⁶ Such an event both signals some success of Mexico's legislation and underscores the fact that, despite any new law, the traffickers and producers will not abandon the meth trade, especially in Mexico.³²⁷ Traffickers and producers have shown they are sufficiently

318. See Feinstein, *supra* note 199; Hegstad, *supra* note 198, at 9B; and Rabe, *supra* note 214.

319. Sunnucks, *supra* note 22; see also Bribes, *supra* note 22, at A7; Zimmerman, *supra* note 202.

320. Hegstad, *supra* note 198, at 9B.

321. *Synthetic Drug Control Strategy Evaluation, Part 1: Hearing Before the Subcomm. on Criminal Justice, Drug Policy, and Human Resources of H. Comm. on Government Reform*, 109th Cong. (2006) (testimony of Joseph T. Rannazzisi, Deputy Assistant Administrator, United States Dept. of Justice).

322. See Suo, *supra* note 287.

323. NDTA 2007, *supra* note 20, at 7.

324. *Id.*

325. See generally Hegstad, *supra* note 198.

326. Suo, *supra* note 313.

327. *Id.*

sophisticated to switch suppliers, find new locations, discover new methods, or divert their resources to other criminal activities.³²⁸

Just as the U.S. federal and state governments have done, Mexico's government would be well served to continue to develop its meth-related legislation,³²⁹ for this is the only way to ensure long-term success in the war against meth.³³⁰ The U.S. government has demonstrated its long-term commitment to fighting the meth war through its diverse, plentiful and evolving legislation.³³¹ Will Mexico do the same?

V. STOP, COLLABORATE, AND LISTEN: A TRANSNATIONAL APPROACH

"For those who have been quick to write off any hope of making real headway against drug traffickers in Mexico - today is a new day."

– Karen P. Tandy³³²

A. Let's Work Together

It is by now a foregone conclusion that the war on meth is a dual front war;³³³ the United States and Mexico are inextricably linked in this battle.³³⁴ Former U.S. Attorney General Alberto Gonzales has called the meth epidemic a "shared problem" between the U.S. and Mexico.³³⁵ Recently, various U.S. Senators have publicly called for stronger efforts of cooperation with Mexico in the fight against meth.³³⁶ U.S. officials have been calling for more direct U.S. involvement in Mexico for a number of years.³³⁷

328. See Bruce Zagaris, *U.S. and Mexico Launch Anti-Methamphetamine Initiative*, 22 INT'L ENFORCEMENT L. REP. 265 (2006).

329. See Biden, *supra* note 271.

330. *Id.*

331. See Combat Meth Act, *supra* note 234; Appropriations Act, *supra* note 272; MTPA, *supra* note 276.

332. Initiative Conference, *supra* note 104 (quoting the Administrator of the Drug Enforcement Administration).

333. See *U.S.-Mexico Relations: Hearing Before the Subcomm. on Western Hemisphere of H. Comm. on Int'l Relations*, 109th Cong. (2006) (testimony of Elizabeth A. Whitaker, Deputy Assistant Secretary, United States Dept. of State) [hereinafter Whitaker].

334. *Id.*

335. Alberto Gonzales, Attorney General, Address at the Nat'l. Methamphetamine and Chemicals Initiative Strategy Conference (May 18, 2006), available at http://justice.gov/ag/speeches/2006/ag_speech_060518.html [hereinafter Gonzales].

336. Press Release, United States Senate, Senators Feinstein and Talent Urge Greater U.S./Mexico/Canada Cooperation in Combating Meth Drug Trafficking (March 10, 2006), available at <http://feinstein.senate.gov/06releases/r-patriot-meth-bushfox.htm> [hereinafter

Although it has shown marked success thus far, U.S. meth legislation standing alone is limited in its enforcement effectiveness, especially for the long term.³³⁸ The same can be said for the counterpart Mexican meth laws because they are far less comprehensive.³³⁹ The two nations must coordinate a comprehensive and committed transnational cooperation in order to find real success in their efforts to combat the meth epidemic.³⁴⁰

Historically, the fight against narcotics has always made the most progress when nations work together by collaborating on policy, initiative, and enforcement; rather than individually combating drugs.³⁴¹ In the 1960s and 1970s, international drug control conventions were created to define and regulate illegal narcotics.³⁴² The U.N. has established the International Narcotics Control Board, Commission on Narcotic Drugs, and the Office of Drug Control and Crime Prevention to aid nations in eradicating illegal drugs.³⁴³ The Organization of American States (OAS) was created to facilitate international cooperation between North and South American nations on criminal issues.³⁴⁴ The impetus for these organizations is the realization that no one nation or country can successfully fight crimes such as narcotic trafficking on its own.³⁴⁵ Moreover, transnational trafficking organizations are non-state actors, and ultimately their loyalty lies not with any single nation, but to themselves, which makes them an international problem rather than just the harboring nations.³⁴⁶

Harmonizing neighboring countries' respective legislation to prevent criminal networks from shifting to weaker jurisdictions is key to this collaboration and cooperation.³⁴⁷ Narcotics traffickers' success in operating is

Feinstein] (noting Senator Feinstein of California has been a leading advocate in the war on meth for a number of years).

337. See Suo, *supra* note 227.

338. Tandy, *supra* note 21.

339. See Ley Federal, *supra* note 305; HPFIN, *supra* note 315, at 69.

340. See Rannazzisi, *supra* note 86 (noting a series of very successful joint initiatives between the U.S. and Canadian governments from the late 1990s to 2003, which demonstrates the effectiveness of governmental agency collaboration on narcotics issues. The enforcement initiatives between the U.S. and Canada, known as Operations Mountain Express I, II, and III and Operation Northern Star, were responsible for a large decrease in illegal importation of pseudoephedrine into the U.S.).

341. Counternarcotics Strategies, *supra* note 290.

342. Levitsky, *supra* note 24, at 236-37.

343. *Id.* at 237.

344. Bruce Zagaris, *Developments in the Institutional Architecture and Framework of International Criminal and Enforcement Cooperation in the Western Hemisphere*, 37 U. MIAMI INTER-AM. L. REV. 421, 454 (2006).

345. Levitsky, *supra* note 24, at 239.

346. See Zagaris, *supra* note 345, at 444.

347. Counternarcotics Strategies, *supra* note 290.

almost always directly attributable to a weak criminal enforcement system.³⁴⁸ This occurrence then creates a cyclic system of corruption and ineptitude in that nation.³⁴⁹ The drug traffickers (cartels) gain power and political influence, which exacerbates and further corrupts a weak government.³⁵⁰ Such a weakened government can hardly respond effectively to threats and other societal needs, thereby creating an environment of despair and disloyalty.³⁵¹

Mexico could be a case study in this phenomenon because historically, Mexico's criminal justice system has not had the ability to effectively counter high level criminal networks, making the nation a haven for powerful drug cartels.³⁵² Although recently the Mexican government has improved, Mexico's ineptitude still contributes to the United States' consideration of trafficking from Mexico as the principal counter-narcotics challenge, and absolutely underscores the need for a bilateral approach.³⁵³

Another factor in the need for a bilateral priority is Mexico's generally sparse and slow-moving legislation.³⁵⁴ While Mexico's government has responded successfully to some individual issues on the meth front, it has taken much prodding by the U.S. government.³⁵⁵ Drug traffickers and cartels, on the other hand, have proven to be highly adaptable, flexible and resilient in their operations.³⁵⁶ They are not hindered by the often lengthy bureaucratic processes of governments.³⁵⁷ Criminal networks can and will do whatever it takes to make their businesses succeed without worrying about executing through proper channels.³⁵⁸ This is an advantage they will always have over governments.³⁵⁹ Given Mexico's history of governmental corruption and weak criminal enforcement, it seems doubtful it would alone be able to institutionally and legislatively keep up with the fast-moving drug networks.³⁶⁰

348. Levitsky, *supra* note 24, at 232.

349. *Id.*

350. *Id.*

351. *Id.* at 235.

352. *See generally* Levitsky, *supra* note 24.

353. Counternarcotics Strategies, *supra* note 290 (noting meth, cocaine, heroin and most other South American drugs use Mexico as their main shipping route).

354. *See generally* Ley Federal, *supra* note 305; HPPIM, *supra* note 315.

355. *See* Counternarcotics Strategies, *supra* note 290.

356. Levitsky, *supra* note 24, at 233; *see also* Feinstein, *supra* note 337 (noting an example of traffickers' increasing sophistication and adaptation: they are now able to move some precursor chemicals in a liquid form that is nearly impossible to distinguish from water).

357. Levitsky, *supra* note 24, at 234.

358. *Id.*

359. *Id.*

360. *See* Zagaris, *supra* note 345.

The United States and Mexico have not always seen eye to eye on narcotics issues.³⁶¹ In the past, the two nations regularly put forth differing and even incompatible strategies and policies regarding transnational criminal activity.³⁶² Past years have been marked by finger-pointing and a refusal to accept responsibility.³⁶³ As recently as ten years ago, many divisive issues separated the two nations, as the U.S. was unhappy with the impunity enjoyed by Mexican drug cartels, and the Mexican government's refusal to extradite drug fugitives.³⁶⁴

Yet today brings a much more efficient relationship between the neighboring nations, after years of long-term U.S. foreign policy and assistance efforts to Mexico.³⁶⁵ But like any diplomatic situation, much of the relationship between the United States and Mexico has been mere political posturing.³⁶⁶ The question remains as to whether the relationship is strong enough to rise to the level of cooperation needed to win the war on meth.

B. A Brief Overview of U.S.- Mexico Collaborative Initiatives

In outlining his vision of future cooperation with Mexico, former Attorney General Alberto Gonzales remarked that "if we work together, sharing resources and intelligence, the law enforcement agencies of our two countries can better attack the [meth] problem. . . ."³⁶⁷ For the first time in history at the 2006 National Methamphetamine Chemicals Initiative Strategy Conference, the Attorney Generals from the United States and Mexico stood together and formally announced a joint plan in the war on meth.³⁶⁸ Attorney General Gonzales expressed optimism that the two nations will be able to jointly build on their individual successes.³⁶⁹

361. *Id.* at 439.

362. *Id.* at 439-40 (explaining that Mexico has historically opposed any potential imposition of U.S. security policy in all of Latin America.).

363. Counternarcotics Strategies, *supra* note 290; *See also* HPFIM, *supra* note 315, at 66. (Reflecting that many Latin American countries, including Mexico, believed drug addiction was an American problem, and not theirs. This is still somewhat apparent in Mexico, as this Mexican government-issued pamphlet reviewing new drug policy notes that America has a grave problem with meth addiction, but fails to mention any problems of their own.).

364. Counternarcotics Strategies, *supra* note 290.

365. *Id.*

366. Initiative Conference, *supra* note 104.

367. Gonzales, *supra* note 336.

368. Press Release, U.S. Department of Justice Drug Enforcement Administration, DEA Outline New Efforts to Combat Methamphetamine (May 18, 2006), *available at* <http://www.dea.gov/pubs/pressrel/pr051806.html> [hereinafter DEA Outline] (noting Mexico's Attorney General is Daniel Cabeza De Vaca).

369. Gonzales, *supra* note 336.

The DEA, as part of the Department of Justice, is the primary governmental agency working with Mexico in the war on meth.³⁷⁰ The DEA has been working with Mexico in various capacities regarding this problem since 2001, but only recently has committed to a more involved relationship.³⁷¹ Specifically, in May 2006 the DEA outlined various new transnational initiatives in conjunction with Mexican counterpart agencies.³⁷² Perhaps the most significant of these new initiatives is an agreement between the two nations to establish specialized methamphetamine enforcement teams on their respective sides of the border.³⁷³ On the Mexican side, these specialized teams will focus their investigations on targeting high profile Mexican drug trafficking and producing organizations.³⁷⁴ On the United States side, the teams will focus on pursuing the traffickers that distribute the finished meth product from Mexico.³⁷⁵

Other initiatives in the United States-Mexico partnership include a Bi-National Law Enforcement Working Group that focuses on sharing intelligence between the two countries regarding trafficking.³⁷⁶ An agreement between the DEA office of Diversion Control and Mexico's COFEPRIS allows Mexican personnel to work in the United States to learn effective practices in chemical regulation. In further supplementing Mexico's efforts, the DEA has donated six specialized clandestine lab enforcement trucks to Mexico to be used by the newly created specialized meth teams.³⁷⁷

Another rather significant initiative is the new cross-border training program for Mexican law enforcement agents.³⁷⁸ Called a "historic effort to jointly combat meth," the program allows for Mexican drug agents to receive the same training as DEA agents at its headquarters in Quantico, Virginia.³⁷⁹ The training received by the Mexican agents covers the latest methods in meth lab

370. Rannazzisi, *supra* note 86.

371. DEA Outline, *supra* note 369; *see also* Rannazzisi, *supra* note 86.

372. DEA Outline, *supra* note 369.

373. *Id.*

374. *Id.*

375. *Id.*

376. *Id.*

377. *Id.* (these trucks contain the necessary tools and resources to destroy and clean up meth labs).

378. Gary Martin, *Cross-border Drug Training Program Produces 55 Graduates*, SAN ANTONIO EXPRESS-NEWS, Sept. 16, 2006, at 20A.

379. *Id.* *See also* Press Release, U.S. Department of Justice Drug Enforcement Administration, First Mexican Law Enforcement Officials Graduate From DEA Academy Anti-Meth Training, (Sept. 15, 2006) [hereinafter First Mexican Law Enforcement Graduates] (explaining that the Mexican agents were from the Mexican Federal Preventative Police (PFP) and the Federal Organized Crime Division Prosecutors (SIEDO) (on file with author).

detection, enforcement, and chemical identification.³⁸⁰ U.S. officials intend for the training to aid the Mexican agents in bringing down the largest trafficking networks in Mexico.³⁸¹ More than 1,000 Mexican agents are planned to be trained through the cooperative effort between the two nations.³⁸² To Mexico's credit, it has made the attempt to create a better enforcement operation by increasing the salaries of its agents and military personnel by almost fifty percent as well as provide more resources for their aid.³⁸³

The Methamphetamine Trafficking Enforcement Act is another crucial piece of legislation in bilateral strategy.³⁸⁴ The bill provides a special provision regarding meth in the Controlled Substances Act.³⁸⁵ Most significantly, the bill enhances anti-meth coordination with other nations to maximize the sharing of intelligence and training internationally.³⁸⁶ Despite the genuine efforts of U.S. lawmakers and enforcement agencies, all of the bilateral initiatives may still not be enough to effectively counter the transnational meth trade.

C. Problems and Solutions

In such a wearisome and sometimes unyielding endeavor as fighting narcotics crime, the U.S. government must put forth a positive image of its efforts and outcomes, otherwise skepticism and tension threaten to undermine the cause.³⁸⁷ The result is that the government paints a picture of success and effectiveness to the public regarding the fight against meth.³⁸⁸ However, the reality is that despite all the new initiatives and policy, the flow of narcotics, especially meth, continues at nearly the same high levels.³⁸⁹ Mexico has never effectively controlled the flow of narcotics over the border, even with the help of the United States, and the question remains as to whether they can do it now.³⁹⁰

380. *Id.*

381. Martin, *supra* note 379.

382. Rannazzisi, *supra* note 86.

383. *Mexican Troops Get Pay Hike in Drug Fight*, CNN.com, Feb. 19 2007 (on file with author).

384. *See generally* Methamphetamine Trafficking Enforcement Act of 2007, S 132 IS, 110th Cong. (1st Sess. 2007) [hereinafter MTEA].

385. *Id.* § 3; *see also* 21 U.S.C. § 848 (2006).

386. *See* MTEA, *supra* note 385, at § 4(b).

387. *See* Zagaris, *supra* note 345, at 444.

388. *See* Tandy, *supra* note 21; *see also* Initiative Conference, *supra* note 104.

389. Whitaker, *supra* note 334, at 14.

390. Christy McCampbell, Deputy Assistant Sec'y for Int'l Narcotics and Law Enforcement Affairs, United States Dep't. of State, International Narcotics and Law Enforcement Affairs Deputy Assistant Secretary Briefs Press on President's Determination on National Drug Producing, Trafficking Countries (Sept. 18, 2006) (transcript available at US Federal News) [hereinafter McCampbell].

Destroying transnational drug networks and cartels that have been a part of Mexican society for decades is an incredibly difficult task.³⁹¹

Despite the optimism surrounding all the new bilateral initiatives, much of the cooperation between the United States and Mexico remains too narrowly focused.³⁹² While specifically targeting meth trafficking seems logical, a broader, more systemic approach would be more effective.³⁹³ The two governments might be better off targeting the actual criminal networks and their environments, rather than the specific criminal activity.³⁹⁴ When the enforcement efforts of the two cooperating governments target a specific criminal activity, the criminals are sophisticated enough to adapt their resources to another activity, and thus the environment of crime persists.³⁹⁵

Furthermore, the two nations ought to maintain a policy of flexibility with regard to overall strategy. While the United States government has created plenty of new initiatives regarding meth,³⁹⁶ many of them are strategically similar to other narcotic policies.³⁹⁷ But the meth epidemic has proved to be unlike any other past drug problem³⁹⁸ and therefore, policy and initiative should be adjusted accordingly.³⁹⁹ As one official stated:

When you see a new drug come through with a new kind of devastation, why don't you come up with a new strategy? It's like in war: We [don't] still think people are going to line up and fight us like at the battle of Waterloo and not do insurgencies. Why don't we adjust our strategies? In narcotics you have to have flexible strategies when new challenges come up.⁴⁰⁰

Another issue to consider is whether Mexico can be counted on for prolonged cooperation. It was not until former President Vicente Fox's administration that Mexico began to welcome more United States

391. See Zagaris, *supra* note 329.

392. *Id.*

393. *Id.*

394. *Id.*

395. *Id.*

396. DEA Outline, *supra* note 369.

397. See NDTA 2007, *supra* note 20.

398. Jefferson, *supra* note 5.

399. See Interview with Rep. Mark Souder (R-IN.), Frontline, (Nov. 2, 2005), available at <http://www.pbs.org/wgbh/pages/frontline/meth/interviews/souder.html> (last visited Sept. 28, 2007) [hereinafter Souder].

400. *Id.*

involvement.⁴⁰¹ While recent developments offer promise that Mexico is resolute in its partnership with the United States, only time will tell whether this relationship is built to endure the long-term meth war.⁴⁰² But one fact is certain—neither nation can win on its own.⁴⁰³

Any success in a transnational effort between the United States and Mexico in fighting meth also depends largely on whether the United States can curtail domestic demand for the drug.⁴⁰⁴ Meth producers and traffickers generate much wealth, therefore reducing demand would undermine the allure of money that drives the meth trade.⁴⁰⁵ Prevention and demand reduction are claimed to be a major part of U.S. drug strategy, but exactly how big a role it will play is relatively unknown.⁴⁰⁶ At least one U.S. senator has called for more emphasis on and resources committed to domestic demand reduction.⁴⁰⁷

Mexico has its own internal problem that must be addressed in order to achieve transnational success on the meth front: corruption.⁴⁰⁸ Governmental corruption induced by powerful drug cartels has long prevented effective law enforcement of narcotics in Mexico.⁴⁰⁹ Reform and professionalization applications must be implemented at all levels from federal agencies to the state and local levels to foster anti-corruption efforts.⁴¹⁰ The Bureau for International Narcotics and Law Enforcement Affairs' "Culture of Lawfulness Program" is an important step in the right direction.⁴¹¹ This program seeks to promote the rule of law at school, community and government realms within Mexico.⁴¹²

The bottom line for success in the transnational approach to the meth epidemic is that there is still a lot of work to be done.⁴¹³ The meth epidemic in the United States is not likely to disappear anytime soon.⁴¹⁴ If the U.S. is to

401. Whitaker, *supra* note 334, at 11-12.

402. Initiative Conference, *supra* note 104.

403. Levitsky, *supra* note 24, at 239.

404. *See generally id.*

405. *See generally id.*

406. McCampbell, *supra* note 391; *see also* Tandy, *supra* note 21.

407. Souder, *supra* note 399.

408. Counternarcotics Strategies, *supra* note 290.

409. *See* Zagaris, *supra* note 329; *see also* Rannazzis, *supra* note 86 (pointing out that the Mexican financial system has also been a major problem. In Mexico, illegal financial transactions are easily carried out, compared to the United States, where legislation like the Patriot Act gives wide governmental access to financial records. Mexico lacks such financial transparency and, as a result, its financial services industry continues to be a facilitator of drug money).

410. Counternarcotics Strategies, *supra* note 290.

411. *Id.*

412. *Id.*

413. *Id.*

414. Initiative Conference, *supra* note 104.

bring Administrator Tandy's words to fruition, that this will indeed be a "new day" in the fight on meth, the United States and Mexico must make a joint commitment to a long-term fight.⁴¹⁵

VI. CONCLUSION

The current epidemic of methamphetamine abuse in the United States is unlike any previous drug problem the nation has faced.⁴¹⁶ Because meth is uniquely easy to manufacture, it has created unprecedented problems, and has likewise spawned unprecedented legislation, both at the state and federal levels.⁴¹⁷ While the new meth-related legislation and laws are not perfect, they have proved generally effective in reducing domestic meth production and manufacturing by aiming to control precursor chemicals.⁴¹⁸ The new federal meth law has especially been effective by providing a national standard regarding precursor chemical control.⁴¹⁹

Mexico has likewise enacted new meth laws similar to U.S. legislation, but its laws are not as expansive or as effective as the U.S. laws.⁴²⁰ Mexico must continue to develop meth-related legislation to anticipate long-term success against meth production and trafficking.⁴²¹ Moreover, Mexico must continue to target the precursor chemical importation problem by enacting appropriate legislation.⁴²²

However, neither the United States nor Mexico alone can win the war on methamphetamine.⁴²³ The United States and Mexico are inextricably linked in this battle.⁴²⁴ Despite all the success of U.S. domestic meth laws, the amount of meth circulating within American communities continues at high levels due to Mexican-based networks smuggling meth across the border.⁴²⁵ Compounding this problem for the United States is Mexico's history of ineptitude in fighting drug networks that has made the nation a haven for powerful drug cartels.⁴²⁶

415. *Id.*

416. Jefferson, *supra* note 5.

417. See Peterson & Jennings, *supra* note 8; *Cooked Up Menace*, *supra* note 15; DePhillips & Sharkey, *supra* note 96; Combat Meth Act, *supra* note 234.

418. See Hegstad, *supra* note 198; OKLA. STAT. tit. 63, § 2-212 (2004); NDTA 2007, *supra* note 20.

419. See Combat Meth Act, *supra* note 234.

420. See Ley Federal, *supra* note 305; HPFIM, *supra* note 316.

421. See generally Biden, *supra* note 271.

422. See Suo, *supra* note 287; Marosi *supra* note 128.

423. See generally Tandy, *supra* note 21; Feinstein, *supra* note 337.

424. See Counternarcotics Strategies, *supra* note 290.

425. See NDTA 2007, *supra* note 20, at 6; Whitaker, *supra* note 334.

426. See generally Levitsky, *supra* note 24.

While the United States and Mexico have publicly committed to a bilateral effort in the war on meth, much of the United States and Mexico cooperation remains misguided.⁴²⁷ A broader, more systematic approach is warranted to find true bilateral success.⁴²⁸ Mexico must also remedy many of its internal problems, such as governmental corruption.⁴²⁹ Furthermore, whether the United States and Mexico can maintain a prolonged partnership in the meth war is uncertain.⁴³⁰ However, one thing is certain: methamphetamine is not likely to disappear anytime soon, and neither the United States nor Mexico can remedy the current epidemic without the help of the other.

427. *See generally* Zagaris, *supra* note 329.

428. *Id.*

429. *See generally* Counternarcotics Strategies, *supra* note 290.

430. *See generally* Whitaker, *supra* note 334.

