

Virginia State Crime Commission

Methamphetamines

2007

METHAMPHETAMINE CRIME IN VIRGINIA

Methamphetamine is a highly addictive stimulant drug that can have extremely deleterious effects on a person's physical and mental health. Placed in Schedule II of the federal Controlled Substances Act in 1971, methamphetamine abuse declined throughout that decade, but a resurgence occurred in the 1980's and 90's; today methamphetamine is considered by the U.S. Drug Enforcement Administration to be a "major drug of abuse." Using the statutory authority granted to the Crime Commission, and at the direction of Vice-Chairman Senator Ken Stolle, staff conducted a study on methamphetamine use and production in Virginia.

In 2001, the Virginia Criminal Sentencing Commission ("VCSC") studied illegal methamphetamine use and distribution in Virginia, and found that "the number of cases involving methamphetamine had been increasing in Virginia since the early 1990's, but remained a small fraction of the drug cases in the state and federal courts." In 2004, they updated their research with an even more extensive study, and found that while methamphetamine arrests were growing at a faster rate than arrests for other drugs, they still accounted for less than two percent of all drug arrests in 2003. The total number of methamphetamine cases in Virginia's circuit courts had increased from the early 1990's (there were 20 cases in 1992, 23 cases in 1993, and 43 cases in 1994), but there were still fewer than 200 cases a year. (There were 122 cases in 2000, 140 cases in 2001, 129 cases in 2002, and 166 cases in 2003, as computed at the time of publication in 2004). By comparison, in 2003 there were over 2,700 convictions involving cocaine, and 380 cases involving heroin. The federal district courts in Virginia had a similar increase over the same time period in the number of cases involving methamphetamines: there were 19 cases in 1992, 8 cases in 1993, and 6 cases in 1994, compared with

42 cases in 2001 and 64 cases in 2002. However, the number of methamphetamine cases in federal courts in Virginia was significantly fewer than the number of cases involving cocaine—in 2002, there were 352 cases involving crack cocaine and 153 cases involving other forms of cocaine.

More troublesome was the data showing the increase in the number of illegal "meth labs" in Virginia. Methamphetamine can be produced using simple over-the-counter cold or allergy medications and other low cost, readily available chemicals. The production methods also create large quantities of environmentally hazardous chemicals—five to six pounds of hazardous waste for every pound of methamphetamine manufactured. The later clean-up of a clandestine methamphetamine manufacturing site can cost a locality or the federal government thousands of dollars. The illegal production of methamphetamine is, therefore, a serious problem.

According to the VCSC 2004 report, there were 30 illegal "meth labs" seized in Virginia by law enforcement in 2003; that number had more than doubled to 63 labs in the first ten months of 2004.

Referencing the same sources that the VCSC used in its 2004 study, the relevant figures for illegal methamphetamine use and manufacture were examined to see if there had been any changes in the general trends in the past three to four years.

The arrest rates in Virginia for methamphetamine offenses have remained relatively constant since 2004; there were 470 arrests in 2003, 541 arrests in 2004, 570 arrests in 2005, and 567 arrests in 2006. While higher than the methamphetamine arrest rates in the first part of this decade—203 arrests in 2000, 194 arrests in 2001, and 332 arrests in 2002—the figures do seem to indicate that the rate is no longer growing. By comparison, there were over ten times as many arrests for cocaine and "crack" in these years: 6,551 arrests in 2003; 7,259 arrests in 2004; 8,052 arrests in 2005; and 8,894 arrests in 2006. There were also more arrests for heroin than for methamphetamine in each of these years: 664 arrests in 2003; 692 arrests

in 2004; 672 arrests in 2005; and 678 arrests in 2006. Overall, methamphetamine arrests continue to amount to less than two percent of all drug arrests in the Commonwealth. This data suggests that methamphetamine use in Virginia remains fairly small compared to other Schedule I and II illegal drugs.

This general conclusion is supported by recent information gathered by the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, in the National Survey on Drug Use and Health ("NSDUH"). According to the most recently released data (from the 2005 survey), 0.2% of respondents reported having used methamphetamine in the last month, compared with 1.3% of respondents who reported having used either cocaine or "crack," and 0.1% that used heroin. The NSDUH indicates that methamphetamine use has declined overall throughout the United States between 2002 and 2005, and the combined data from those years indicates persons in the West were more likely (1.2% of respondents) to have used methamphetamine in the past year than persons in the South (0.5% of respondents).

The VCSC was contacted for recent Pre/Post Sentence Investigation ("PSI") data concerning methamphetamine convictions in Virginia's circuit courts, in an attempt to see if any trends were discernable. VSC spent much of 2007 re-examining the topic of methamphetamine use in Virginia, updating their 2004 report with an even more exhaustive study. Their most recent review of the PSI data indicates that in FY03, there were 146 convictions for offenses involving methamphetamine; in FY04, there were 204 convictions; in FY05, there were 157 convictions, and for FY06, there were 73 convictions. The number of convictions thus appears relatively stable, and the preliminary results suggest that the rate of methamphetamine convictions in Virginia courts is not increasing. By comparison, there were 2,512 convictions involving cocaine or "crack" in FY05, and 249 convictions involving

heroin.

In the federal district courts in Virginia, there were 109 convictions involving guideline defendants where the primary offense involved methamphetamine in FY03, 87 such convictions in FY04, 138 convictions in FY05, and 145 such convictions in FY06. By comparison, there were 608 such convictions involving cocaine or "crack" in FY03; 584 cocaine or "crack" convictions in 2004; 649 convictions in 2005; and 608 convictions in 2006.

As with the arrest data and the information obtained from the NSDUH, the number of convictions involving methamphetamine in Virginia, in both state and federal courts, indicates that illegal methamphetamine use has not grown rapidly in the past few years, and is much less wide-spread than cocaine.

With increasing awareness of the dangers posed by the illegal production of methamphetamine, both Governor Mark Warner and the Virginia General Assembly took steps to address this growing concern in both 2005 and 2006.

In 2005, the General Assembly inserted a new subsection into Va. Code § 18.2-248, dealing solely with the manufacture of methamphetamine. Anyone who manufactures any amount of methamphetamine is now guilty of a felony punishable by 10 to 40 years imprisonment; a second conviction is punishable by imprisonment from ten years to life; a third conviction is punishable by imprisonment from ten years to life, with a mandatory minimum sentence of three years, provided the prior convictions are alleged and proven at trial.

That same year, the General Assembly also enacted a new subsection into Va. Code § 18.2-248 making it a Class 6 felony, punishable by one to five years imprisonment, to possess two or more methamphetamine precursor drugs with the intent to manufacture methamphetamine. And, a new statute was created, making it a felony for any adult to allow a child, over whom he has a custodial

relationship, to be present in the same dwelling where methamphetamine is being manufactured. The punishment is 10 to 40 years imprisonment, to be served consecutively with any other sentence.

Later that year, on September 1, 2005, Governor Mark Warner issued Executive Directive 8, mandating that the State Health Commissioner issue an order limiting the quantities of methamphetamine precursor ingredients that may be lawfully purchased. Pursuant to this Directive, the Virginia Department of Health issued an Order that limited the quantities of ephedrine or pseudoephedrine that a person could buy in any one transaction, required retailers to keep any products containing those ingredients “behind the counter,” and further required that records be maintained on the identity of all customers who purchased such products.

In 2006, the General Assembly enacted legislation, Va. Code § 18.2-248.8, that mandated very similar requirements and restrictions. A violation of this section is a Class 1 misdemeanor. Also in 2006, a heightened penalty was inserted into subsection C of the Va. Code § 18.2-248, for “anyone who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give, or distribute” certain large quantities of controlled substances—quantities that previously would not have been eligible for the heightened penalties under subsection H of that statute. Under this new legislation, any offense involving ten grams of methamphetamine is punishable by imprisonment from five years to life, with a minimum mandatory of five years.

These legislative enactments may be having some effect on the presence of illegal “meth labs” in Virginia. Previously, there had been an alarming rise in the presence of such labs in Virginia between 2002 and 2004. According to data maintained by the United States Drug Enforcement Administration’s El Paso Intelligence Center, law enforcement seized 10 “meth labs” in 2002, 31 labs in 2003, and 75 labs in 2004. In 2005, the number of seized labs had decreased to 52, and in 2006, the

number was 23.

Conclusion

While methamphetamine is a dangerous drug that has been the focus of much attention in the past few years, the data from a variety of sources seems to indicate that the expansion in illicit use and manufacturing in Virginia, first noticed in the early years of this decade, appears to have halted; arrest rates and number of court cases seem to have stabilized. These same sources reveal that cocaine remains much more of a wide-spread problem in Virginia. The worrisome trend of the rapidly growing number of “meth labs” in the Commonwealth, observed in 2004, appears to have dissipated. This is possibly due to the increased penalties enacted in 2005 and 2006 for manufacturing methamphetamine, and the stricter regulation of “pre-cursor” chemicals, making it more difficult for illegal production to take place. Close attention must continue to be paid to illegal methamphetamine use and manufacture in Virginia, but the most recent data is, overall, very encouraging.

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