

WRITTEN TESTIMONY  
OF  
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ARKANSAS' FIFTH JUDICIAL DISTRICT

HOUSE GOVERNMENT REFORM SUB-COMMITTEE  
ON  
CRIMINAL JUSTICE DRUG POLICY AND HUMAN RESOURCES

BENTONVILLE, ARKANSAS  
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Arkansas' Fifth Judicial District has an area of 2084 square miles and is composed of three counties: Franklin, Johnson and Pope. The District's western border is the western border of Franklin County, which lies approximately 24 miles east of the Arkansas/Oklahoma border. The District stretches east from Franklin County through Johnson County where it ends with Pope County's border with Conway County, approximately 80 miles away. The Arkansas River forms the southern border of the District with the exception of the Charleston District of Franklin County, which is situated south of the river. I-40 runs through the entire district from east to west and constitutes a major corridor for Methamphetamine trafficking – this is particularly true since September 11, 2001. The number of vehicles forfeited on I-40 in the Fifth District increased from nine in 2001 to twenty-four and twenty-three in 2002 and 2003, respectively.

In 2000, the district had a population of 95,020. This was an increase district-wide of approximately 20% from 1990. The district is overwhelmingly white (>90% for each of the three counties), although Johnson County has a significant and growing Hispanic population: 6.7% as of 2000. The percentage of adults over 25 with a high school education is 71.1% for Franklin County; 67.6% for Johnson County; and 77.1% for Pope County. The median household income for Franklin County is \$30,848; for Johnson County \$27,910; and for Pope County \$32,069. The unemployment rate as of April 2004 was 4.1% for Franklin County; 3.9% for Johnson County; and 4.6% for Pope County.

The use, distribution and manufacture of Methamphetamine is a pervasive and malignant problem which puts a tremendous strain on the criminal justice system in the Fifth District. In 2003 and the first five months of 2004, 52% of all felonies filed in the district involved either the use, distribution, or manufacture of Methamphetamine. This

does not include the forgeries, burglaries, thefts and felony hot check crimes which were committed in order to finance a Methamphetamine habit. At least one murder in Franklin County was the direct result of Methamphetamine trafficking. The murder resulted in the death of one young man, and lengthy prison sentences for three others. None of the four men had reached the age of 21 at the time of the crime.

An examination of all Methamphetamine related cases (manufacturing, possession of paraphernalia with intent to manufacture, delivery, possession with intent to deliver, and possession) shows that between 1997 and 2003 there was a 114.66% percent increase in the number of Methamphetamine cases filed in the district. When the focus is narrowed to manufacturing cases (manufacture and possession of paraphernalia with intent to manufacture), the increase is astounding – from nine (9) cases in 1997 to sixty-seven (67) cases in 2003 – a 644% increase. In the first five months of 2004 there have been thirty-six manufacturing cases filed.

The following charts illustrate the increase in filings for Methamphetamine manufacture, delivery/possession with intent to deliver, and possession for the years of 1997-2003 and the first five months of 2004.

While possession and distribution of Methamphetamine are certainly very important parts of the Methamphetamine problem, it is the manufacture of Methamphetamine which threatens to collapse the criminal justice system in the Fifth Judicial District. Although 95% of the labs filed on in the Fifth District produce less than one ounce of Methamphetamine per generating period, their impact is much greater than the product itself. This disproportionate effect is the result of the following factors:

- 1) An inordinate amount of manpower is required to investigate labs and to prepare and execute search warrants.
- 2) An inordinate amount of manpower and resources are required for clean-up of lab sites. Clean-up is required in approximately 95% of Fifth District lab cases.
- 3) Methamphetamine labs require extensive Crime Laboratory Analysis, both quantitatively and qualitatively, because of the type and numbers of items recovered in meth labs.
- 4) Trials typically take two to three times as long as trials required for possession or delivery cases.
- 5) Prison sentences are typically, and justifiably, longer, putting a strain on the prison system.

In the Fifth District, Methamphetamine is manufactured using two basic methods: Lithium-Anhydrous Ammonia Method and the Red Phosphorous Method. Both methods require pseudoephedrine or ephedrine as a starting point. The ephedrine or

pseudoephedrine must be in solid form. Techniques are not available to extract pseudoephedrine or ephedrine from gel or liquid medications. The meth cooks in the Fifth District use over-the-counter cold medications, such as Sudafed and Claritin D, and go from retail store to retail store to get enough pills to convert to Methamphetamine. Nine (9) grams of pseudoephedrine will normally yield 4.5 to 7.0 grams of Methamphetamine.

The fact that ephedrine or pseudoephedrine is required to manufacture Methamphetamine is the Achilles Heel of the lab cooks in two respects. First, the fact that cooks go from store to store to purchase or shoplift the pseudoephedrine is used by DTF agents to identify manufacturers, and subsequently, to obtain search warrants for their labs. Second, if pseudoephedrine and ephedrine can be made inaccessible to cooks, they simply cannot synthesize Methamphetamine. Again, without pseudoephedrine or ephedrine, it is impossible to make Methamphetamine.

In April of this year, Oklahoma adopted the approach of making pseudoephedrine inaccessible to cooks when it passed legislation which restricted the sale of pseudoephedrine in the following ways:

- 1) All compounds containing any detectable amount of pseudoephedrine, other than those in liquid, liquid capsule, or gel capsule form, must be dispensed only by a licensed pharmacist or a licensed pharmacist technician.
- 2) Any person purchasing or receiving the compound must provide a photo ID with date of birth and must sign a written log showing date, name of person, and amount of compound.
- 3) No person may purchase or receive more than 9 grams of compound within a 30-day period, unless dispensed pursuant to a valid prescription. (Oklahoma HB 2176)

The Southwest Times Record published in Fort Smith, Arkansas, reported on June 22, 2004, that the number of Methamphetamine labs in Oklahoma dropped 70% since the law was enacted. The article went on to state that "...about 90 meth labs were reported to the OSBI in March...that figure declined to 64 in April and fell further to 29 in May."

It is the opinion of the Prosecuting Attorney's Office of the Fifth Judicial District that if Congress were to enact legislation similar to that of Oklahoma's, a stake would be driven through the heart of the Methamphetamine problem in areas such as Arkansas' Fifth Judicial District.

Respectfully submitted,

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Fifth Judicial District