

## 2014 Follow-up Report: Methamphetamine Production in Tennessee

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January 2014

### Key Points

- The illicit production of methamphetamine (meth) remains a serious public health, safety, and fiscal issue in Tennessee.
- Meth production in Tennessee remains at high levels. Between 2008 and 2012, Tennessee and Missouri reported the two highest numbers of meth lab incidents in the nation.
- In 2013, a number of Tennessee local governments considered, and 18 have passed, local ordinances to require a healthcare provider prescription to purchase meth pharmacy precursors – primarily the nasal decongestant pseudoephedrine – at pharmacies within their jurisdictions. In December 2013, the Tennessee Attorney General's Office issued an opinion, which holds that the ordinances violate state law.
- The impact of precursor control policies is inconclusive. Analysis of meth lab incident data and precursor control policies by state does not show a conclusive relationship between specific precursor control policies and the number of reported meth lab incidents. Isolating the impact of a particular precursor control policy is more difficult as states continue to increase the number of precursor control policies in effect.
- There does not appear to be a consistent trend in meth lab incidents between 2010 and 2012 among high meth production states with electronic tracking.
- The number of meth lab incidents in Tennessee since the implementation of the National Precursor Log Exchange (NPLEx) in January 2012 has not decreased substantially and remains at high levels. (NPLEx is a real-time, stop-sale meth pharmacy precursor electronic tracking system. It is employed statewide in 29 states including Tennessee and in some pharmacies in other states.)
- Pharmacy precursor purchases in Tennessee for the first three quarters of 2013 were 10 percent lower compared to 2012. Estimated sales declined about two percent from 2011 to 2012 following the implementation of NPLEx. Blocked purchases as a percentage of all purchase attempts remained low – two percent in 2012.
- For the two states with prescription-only statutes, meth lab incidents in 2012 in Oregon remained at low levels and in Mississippi continued to decline. Meth lab incidents in some other nearby states have followed similar trends.
- As of July 2013, 70 local jurisdictions in 26 Missouri counties had passed prescription-only ordinances. Most ordinances were in effect by the end of 2011. The number of statewide lab incidents in Missouri remained at about 2,000 per year from 2010 through 2012. The number of reported meth lab incidents decreased in 16 of the 26 counties and increased or remained about the same in the remaining 10. Rigorous statistical studies of the effectiveness of Missouri's local ordinances are not currently available.
- Sufficient data is not yet available to assess the impact of local prescription-only ordinances in Tennessee. However, the Winchester Police Chief has noted a decline in meth lab incidents, as well as a decline in smurfing and associated crimes, since the municipal ordinances in Franklin County became effective in June 2013.
- Federal funding to support local meth enforcement and required lab cleanup remains uncertain.
- Two "meth-resistant" pseudoephedrine products – Nexafed and Zephrex-D – are now available in many pharmacies nationwide.

The Tennessee Comptroller's Offices of Research and Education Accountability (OREA) released the report *Methamphetamine Production in Tennessee* in January 2013, as directed by Public Chapter 292 of 2011. That report examined the problems presented by methamphetamine (meth) production in Tennessee and the effectiveness of pharmacy precursor controls, with a focus on electronic tracking and prescription-only requirements. By legislative request, this report is a one-year update of information and data analysis included in the original report.

**Extent of Meth Lab Problem**

**The illicit production of meth remains a serious public health, safety, and fiscal issue in Tennessee.**

Meth production, as measured by the number of meth lab incidents reported by law enforcement, remains at high levels. (See Appendix B for a discussion of report terminology and data limitations.) In 2012, the Tennessee Methamphetamine and Pharmaceutical Task Force (TMPTF) reported 1,811 meth lab incidents, an increase from 1,687 incidents in 2011.<sup>1,2</sup> Through October 2013, law enforcement agencies have reported 1,485 lab incidents. Incidents are down from the highest level in 2010 of 2,082,<sup>3</sup> but remain at high levels compared to other states.

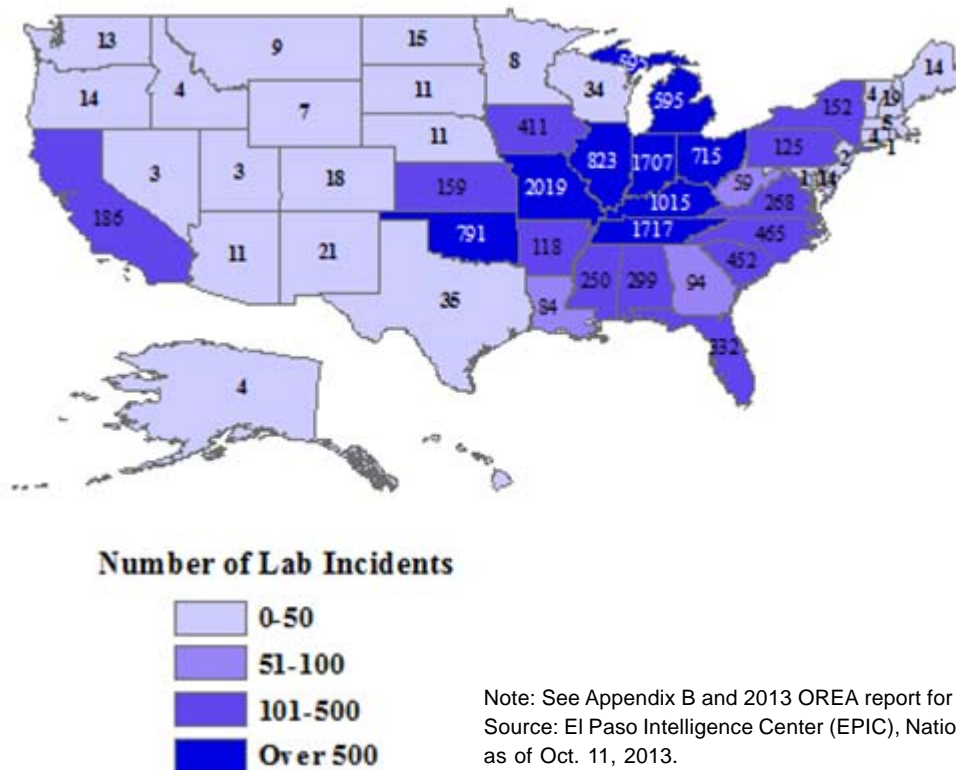
Between 2008 and 2012, Tennessee and Missouri reported the two highest numbers of meth lab incidents in the nation.<sup>4</sup> Tennessee accounted for 13 percent of U.S. meth lab incidents reported to the Drug Enforcement Administration's El Paso Intelligence Center (EPIC) in 2012. Meth production remains concentrated in Southern and Midwestern states, but a few Northeastern states (Pennsylvania and New York)

**2013 DEA National Assessment**

The Drug Enforcement Administration's 2013 National Drug Threat Assessment Summary indicates that the supply of Mexican methamphetamine is increasing in the U.S. The 2013 assessment is based on indicators showing higher meth purity, lower meth prices, and increased Southwest border meth seizures. The DEA expects large-scale U.S. domestic meth production to continue to decrease, but does not expect it to disappear.

Source: U.S. Department of Justice, Drug Enforcement Administration, *2013 National Drug Threat Assessment Summary*, Nov. 2013, pp. 10, 18, <http://www.justice.gov/>.

**Exhibit 1: Meth lab incidents by state, 2012**



Note: See Appendix B and 2013 OREA report for EPIC data limitations. Source: El Paso Intelligence Center (EPIC), National Seizure System, as of Oct. 11, 2013.

had a substantial increase in incidents in 2012. (See [Exhibit 1](#) and [Appendix A](#) for reported lab incidents by state by year.) In 2012, 72 percent of reported lab incidents were from eight states; 96 percent of reported incidents were from 20 states.

In 2012, 15 of the 95 counties in Tennessee accounted for about 50 percent of the 1,811 reported lab incidents statewide.<sup>5</sup> (See [Exhibit 2](#).) Eleven of these 15 counties were in East Tennessee, one in Middle Tennessee, and two in West Tennessee.<sup>6</sup> Counties with the highest number of 2012 lab incidents reported include: Anderson (130), Hamilton (85), Shelby (76), Putnam (66), Warren (63), McMinn (62), Bradley (61), Coffee (60), Campbell (52), Carter (50), Dyer (47), Sullivan (44), Meigs (35), Morgan (34), and Rhea (31).

The number of convicted meth-related offenders incarcerated in Tennessee prisons or local jails increased from 1,365 in January 2012 to 1,819 as of November 1, 2013. The number of felons convicted of meth-related offenses being supervised on probation or parole also increased, rising from 3,051 in 2012 to 4,164, as of November 6, 2013.<sup>7</sup>

Between January 2010 and September 30, 2013, 1,305 children were placed in Department of Children Services' (DCS) custody due to meth production and/or use, at a total estimated cost to DCS of \$30 million. The number of children placed in custody has declined from 486 in 2010 to 265 in 2012. Through the first three quarters of

2013, 224 children were placed in DCS custody due to meth production. These figures do not include such children placed in others' custody.<sup>8</sup>

### Extent of Meth Use

Updated information on available national and Tennessee methamphetamine abuse measures are included below. See [Appendix B](#) for limitations to drug abuse data.

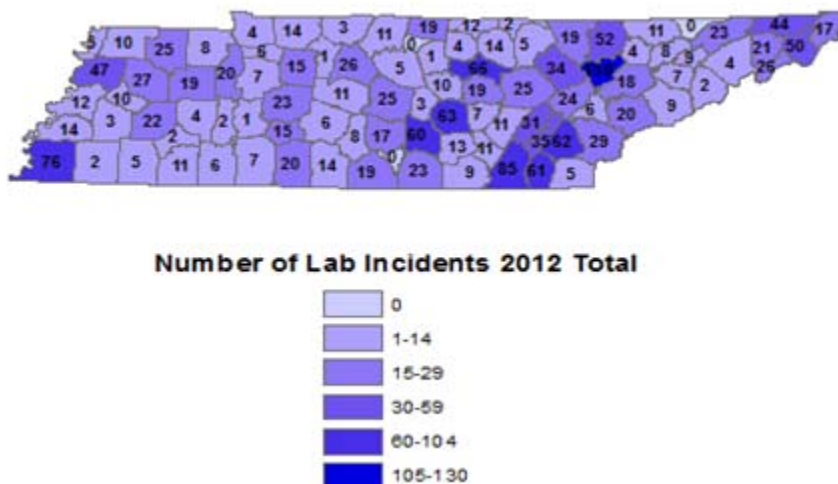
#### National

The 2012 National Survey on Drug Use and Health estimated there were 440,000 (0.2 percent of the population) methamphetamine users in the U.S. The number of new users (those who had first used meth in the past year) among persons age 12 or older was 133,000 in 2012. According to the national survey results report, the 2012 estimates are similar to estimates from 2007 through 2011 and represent a decline from 2006 estimates.<sup>9</sup>

#### Tennessee

Admissions to publicly-funded treatment facilities in Tennessee for amphetamines (which include meth) in 2011 and 2012 were greater than in 2010. As shown in [Exhibit 3](#), amphetamine admissions increased from 525 in 2010 to 939 in 2011 with a decline to 852 in 2012. In 2012, six percent (852) of the 13,525 admissions to publicly-funded treatment facilities in Tennessee were for amphetamine abuse compared to four percent of the 11,751 admissions in 2010. (See [Exhibit 3](#).)

**Exhibit 2: Tennessee meth lab incidents by county, 2012**



Source: Tennessee Methamphetamine and Pharmaceutical Task Force, Tennessee Methamphetamine Intelligence System (TMIS).

The Haslam administration's Public Safety Action Plan calls for expanded access to drug treatment courts and emphasizes the importance of such courts in treating persons with serious meth addictions. The percentage of drug court enrollees indicating meth as their primary drug of choice has increased from 14 percent in 2011 to 22 percent through the third quarter in 2013. Drug court enrollment averaged about 1,460 offenders during that period. Another part of the plan calls for expanding regional, residential drug court facilities. The Morgan County Recovery Court, a 100-bed, nine-month

residential treatment program using Tennessee Department of Correction beds, began intake in August 2013. This facility provides additional residential placements for offenders, including convicted felony meth abusers, sentenced to drug treatment courts from across the state for serious addictions.<sup>10</sup>

### Legislative and Policy Update

#### Tennessee

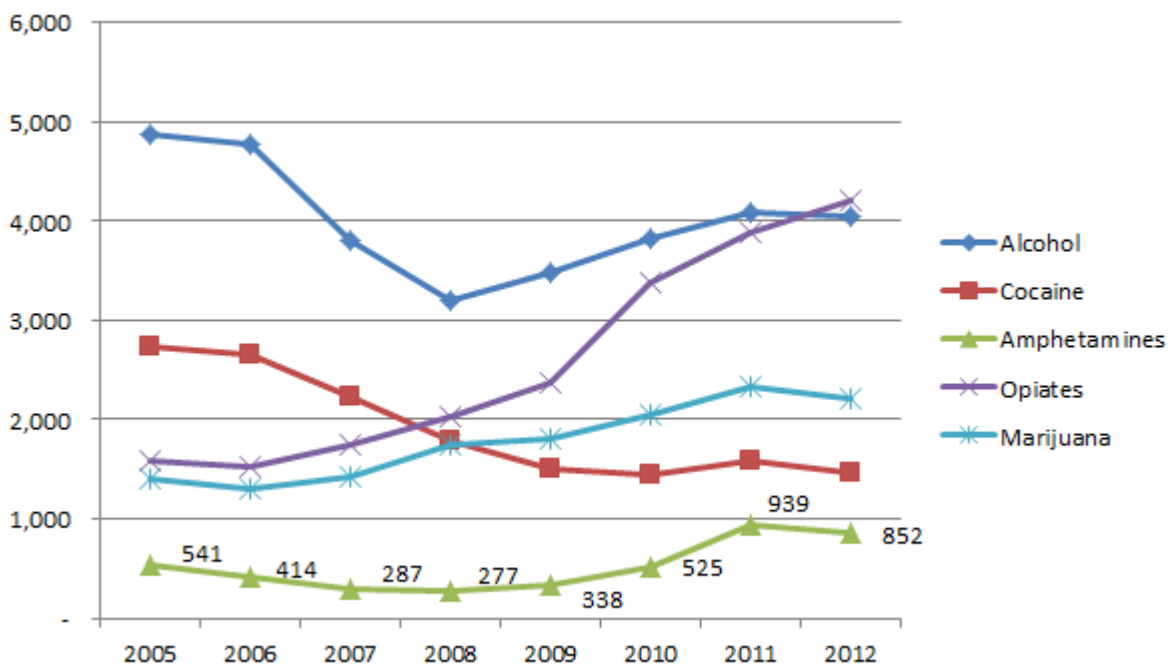
No bills addressing meth production were passed in the General Assembly in 2013, though several were introduced.<sup>11</sup> Bills focused on further limiting access to pharmacy precursors, primarily pseudoephedrine,<sup>12</sup> by:

- reducing the 30-day and annual limits on pharmacy precursor purchases by individuals,
- classifying pharmacy precursors as a Schedule III controlled substance, which requires a healthcare provider prescription to obtain,<sup>13</sup>
- requiring a pharmacist-generated prescription order to purchase pharmacy precursors, and
- changing reporting requirements so that meth-related convictions are reported to the Methamphetamine Offenders' Registry to prevent pharmacy precursor purchases by those offenders.

In 2013, a number of Tennessee local governments considered, and 18 have passed, local ordinances to require a healthcare provider prescription to purchase pharmacy precursors at pharmacies within their jurisdictions. (See [Exhibit 4](#).) In four counties (Franklin, Grundy, Meigs, and Weakley), all municipalities that have a pharmacy passed prescription-only ordinances making the county in effect prescription-only. As of November 15, 2013, several other local governments were considering similar ordinances.<sup>14</sup> (See [Appendix C](#) for an overview of meth-related laws.)

On December 6, 2013, the Tennessee Attorney General's Office issued an opinion, which holds that the ordinances violate state law.<sup>15</sup> The opinion asserts that *Tennessee Code Annotated* 39-17-431 establishes the General Assembly's intent for the state to be the exclusive entity to regulate the entire field of meth pharmacy precursors, therefore prohibiting any local enactments. The opinion does not have the force and effect of law, and does not automatically invalidate those ordinances now in effect, but the opinion may be given persuasive weight by a court if the issue is ever subject to litigation.

**Exhibit 3: Admissions to Tennessee treatment facilities by selected primary substance of abuse, 2005 through 2012**



Source: Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration, Treatment Episode Data Set (TEDS), as of Nov. 5, 2013.

The Haslam administration's Public Safety Action Plan includes a "Meth Stops Now" marketing campaign and communications plan funded by federal grants. The campaign addresses "the consequences of purchasing ingredients to make meth, making meth in the presence of children, and the danger and addictive nature of meth." As of December 2013, the marketing plan includes \$500,000 in media purchases targeting counties with a high number of reported meth lab incidents.<sup>16</sup>

In addition, in October 2013, the Consumer Healthcare Products Association (CHPA), an association including manufacturers of pseudoephedrine products, launched an anti-smurfing educational program for pharmacies in Tennessee. The program is available for voluntary use at

no cost.<sup>17</sup> The program includes posters for pharmacies to display to warn individuals of the related criminal penalties for purchasing pharmacy precursors for others to manufacture meth ("smurfing") and to inform them how the precursor electronic tracking systems used by pharmacies and law enforcement work to identify suspicious purchases.

**Update on Other States' Precursor Control Policies**

Listed below are some changes in other states' meth precursor control policies since June 30, 2012. This is not an exhaustive list, but a sampling of states' actions related to pharmacy precursor controls.

In 2013, four states – Nevada, Vermont, Pennsylvania, and Delaware – passed legislation to join the National

**Exhibit 4: Tennessee municipalities passing ordinances to make it illegal to sell pharmacy precursors without a healthcare provider prescription, as of November 2013**

<b>All pharmacies in county are prescription-only:</b>	
<b>Franklin County</b>	
Winchester	June 11, 2013
Decherd	June 27, 2013
Huntland	June 10, 2013
Estill Springs	June 24, 2013
Cowan	July 9, 2013
<b>Grundy County</b>	
Tracy City	June 20, 2013
Altamont	August 19, 2013
Palmer	September 16, 2013
Coalmont	August 19, 2013
<b>Meigs County</b>	
Decatur	September 10, 2013
<b>Weakley County</b>	
Martin	August 12, 2013
Gleason	August 8, 2013
Dresden	August 5, 2013
<b>Pharmacies in the following municipalities are prescription-only:</b>	
Pulaski (Giles Co.)	November 5, 2013
Monteagle (Marion Co.)	July 23, 2013
Harriman (Roane Co.)	November 5, 2013
Lavergne (Rutherford Co.)	September 3, 2013
Spring City (Rhea Co.)	November 5, 2013

Source: Chief Dennis Young, Winchester Police Department, e-mail, Nov. 15, 2013.

Precursor Log Exchange (NPLEx)<sup>18</sup> to electronically track the sales and enforce sales limitations within their states as well in other NPLEx-member states. As of August 2013, 29 states, including Tennessee, have committed to using NPLEx. (See Exhibit 5.)

Oregon and Mississippi remain the only two states that require a prescription to purchase pharmacy precursors.<sup>19</sup>

In 2013, three states – Kentucky, Oklahoma, and West Virginia – reduced the amount of pharmacy precursors an individual can purchase from 9.0 grams per 30 days, which is the limit set in federal law, to 7.2 grams.<sup>20</sup> Ten states have now set purchase limits lower than the federal requirement.<sup>21</sup> (See Exhibit 6.) Five of those states have a 365-day limit in addition to their 30-day limit: 24 grams in Kentucky, 48 grams in West Virginia, 54 grams in Alaska, 60 grams in Oklahoma, and 61.2 grams in Indiana. Walmart has voluntarily implemented a 54 grams per individual per 365-day limit at its stores nationwide, which is 50 percent of the federal limit.<sup>22</sup>

In 2012, Alabama enacted legislation requiring individuals residing in a state requiring a prescription for pharmacy precursors to provide a prescription to obtain the product in Alabama.<sup>23</sup>

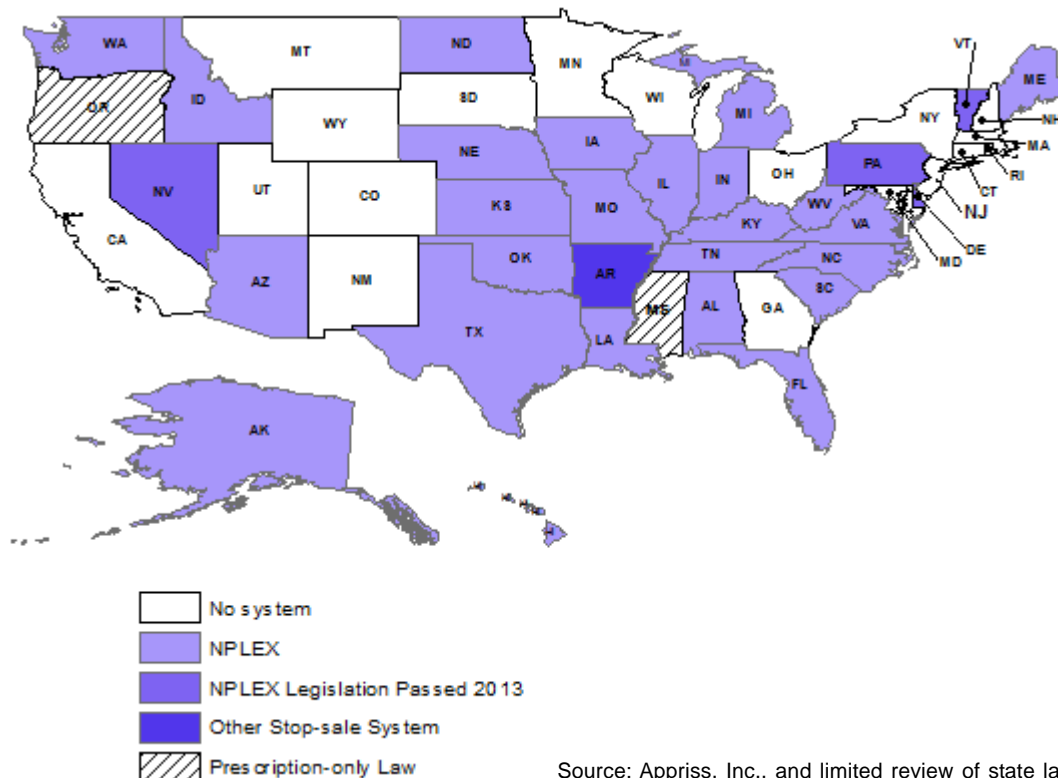
### 2013 GAO Study

In late January 2013, the Government Accountability Office (GAO) released a study that focused on the impact of precursor control policies from 2002 through 2011. The report, *State Approaches to Control Access to Key Methamphetamine Ingredients Show Varied Impact on Domestic Drug Labs*, concluded:

- Meth lab incidents declined following state and federal restrictions on pseudoephedrine (PSE), but they rose again as meth producers responded to the restrictions by altering their methods for acquiring PSE and producing meth.
- Electronic tracking systems, such as NPLEx, help enforce PSE sales limits, but they have not reduced meth lab incidents and have been limited by the practice of “smurfing,” where producers pay others – commonly referred to as “smurfs” – to purchase the PSE that is then used to produce meth.
- “The prescription-only approach for PSE appears to have contributed to reductions in lab incidents with unclear impacts on consumers and limited impacts on the health care system.”

Source: U.S. Government Accountability Office, *State Approaches to Control Access to Key Methamphetamine Ingredients Show Varied Impact on Domestic Drug Labs, Highlights*, GAO 13-204, January 2013, <http://www.gao.gov/> (accessed Nov. 12, 2013).

**Exhibit 5: States using pharmacy precursor electronic tracking systems and prescription-only requirements**



Source: Appriss, Inc., and limited review of state laws by OREA.

**Exhibit 6: State pharmacy precursor quantity limits lower than federal limits, November 2013**

	Grams per day	Grams per 30 days	Grams per 365 days * * Annual limit calculated by multiplying 30-day limit by 12
<b>Federal</b>	3.6	9.0	108 *
<b>Alabama</b>		7.5	90*
<b>Alaska</b>		6.0	54
<b>Illinois</b>		7.5	90*
<b>Indiana</b>		7.2	61.2
<b>Iowa</b>		7.5	90*
<b>Kentucky</b>		7.2	24
<b>Minnesota</b>		6.0	72*
<b>Oklahoma</b>		7.2	60
<b>West Virginia</b>		7.2	48
<b>Wisconsin</b>		7.5	90*

Notes: States not listed above, including Tennessee, comply with the federal *Combat Methamphetamine Epidemic Act of 2005 (CMEA)* included above as "Federal."

Source: NPLeX compliance checks provided by Appriss, Inc., Nov. 2013.

**Impact of Meth Precursor Control Policies**

**The impact of precursor control policies is inconclusive.** Analyses of meth lab incident data and precursor control policies by state do not show a conclusive relationship between specific precursor control policies and the number of reported meth lab incidents. Isolating the impact of a particular precursor control policy is more difficult as states continue to increase the number of precursor control policies in effect.

[Exhibits 7 and 8](#) show the trend in meth lab incidents in the U.S. and Tennessee from 2000 through 2012. The number of meth lab incidents in the U.S. and Tennessee increased from 2007 through 2010. From 2010 through 2012, the number of meth labs incidents in the U.S. declined. In Tennessee, the number of meth lab incidents declined in 2011 and increased in 2012.

**Impact of Electronic Tracking of Pharmacy Precursor Sales**

**The trend in meth lab incidents between 2010 and 2012 for high meth production states with electronic tracking varied.** To determine the potential impact of different precursor control policies on meth lab incidents, OREA looked at changes in meth lab

**Data Limitations**

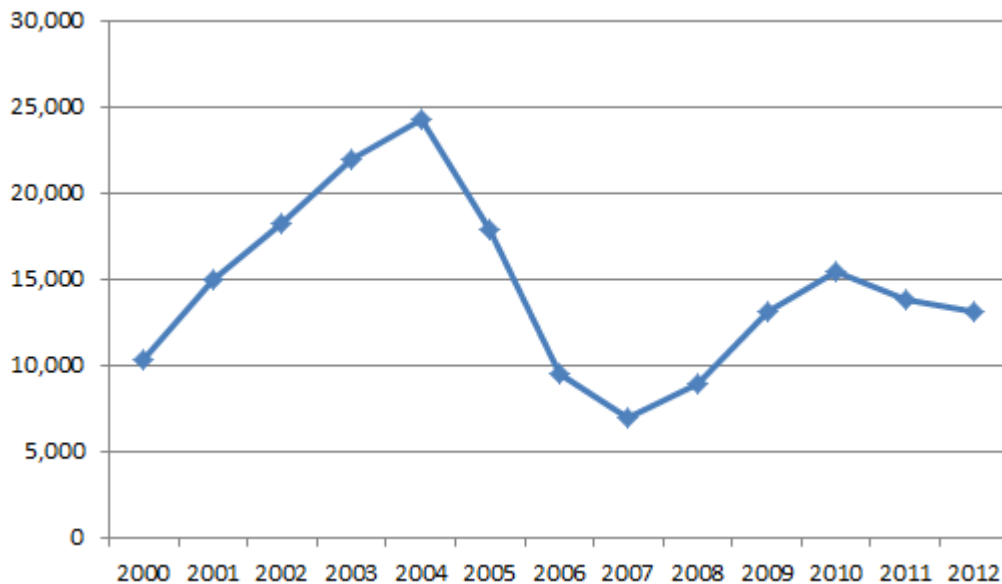
As explained in more detail in Appendix B and in OREA's 2013 report, an assessment of the extent of meth production is hindered by limitations in the data on meth lab incidents reported through EPIC, as well as by limitations in the reporting of criminal statistics in general. These limitations temper the conclusions that can be drawn about the impact of particular precursor control laws on the production of meth in small labs.

Acknowledging such limitations, this report presents statistics on meth lab incidents in states that have adopted some form of precursor controls.

incidents between 2010 and 2012 in high meth production states – states reporting over 500 meth lab incidents in 2010 or 2012. (See [Exhibit 9.](#))

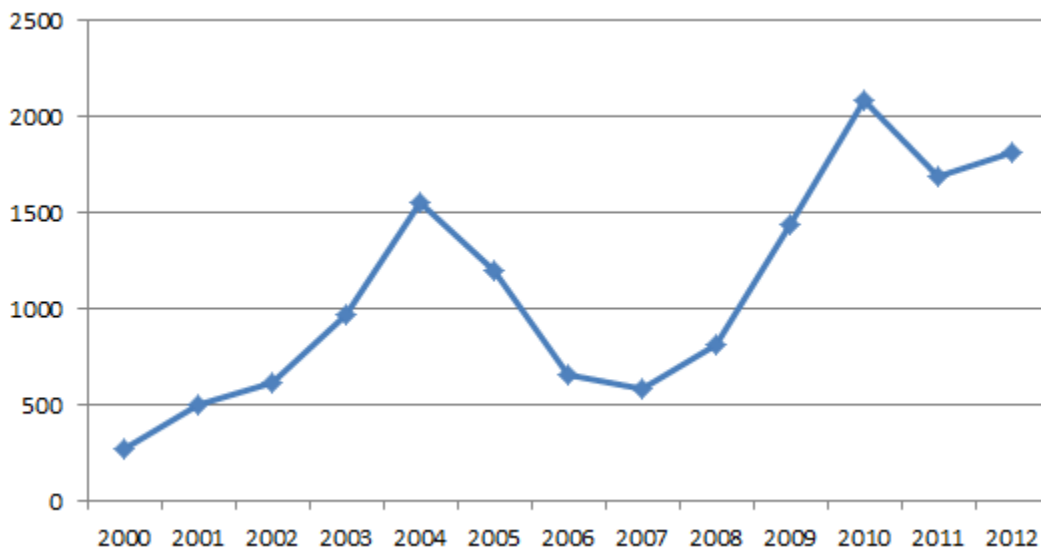
Four states implemented statewide electronic tracking prior to 2010 – Tennessee, Oklahoma, Kentucky, and Arkansas. Tennessee, Kentucky, and Oklahoma had moderate decreases in incidents between 2010 and 2012 (12 to 25 percent), but still reported over 500 incidents in 2012. The number of incidents in Arkansas dropped from 800 in 2010 to 100 in 2012, a decline of 86 percent.

### Exhibit 7: Meth lab incidents in the United States, 2000 through 2012



Source: El Paso Intelligence Center (EPIC), National Seizure System, 2000 to 2012; 2000 to 2010 as of Oct. 4, 2012, and 2011 to 2012 as of Oct. 11, 2013.

### Exhibit 8: Meth lab incidents in Tennessee, 2000 through 2012

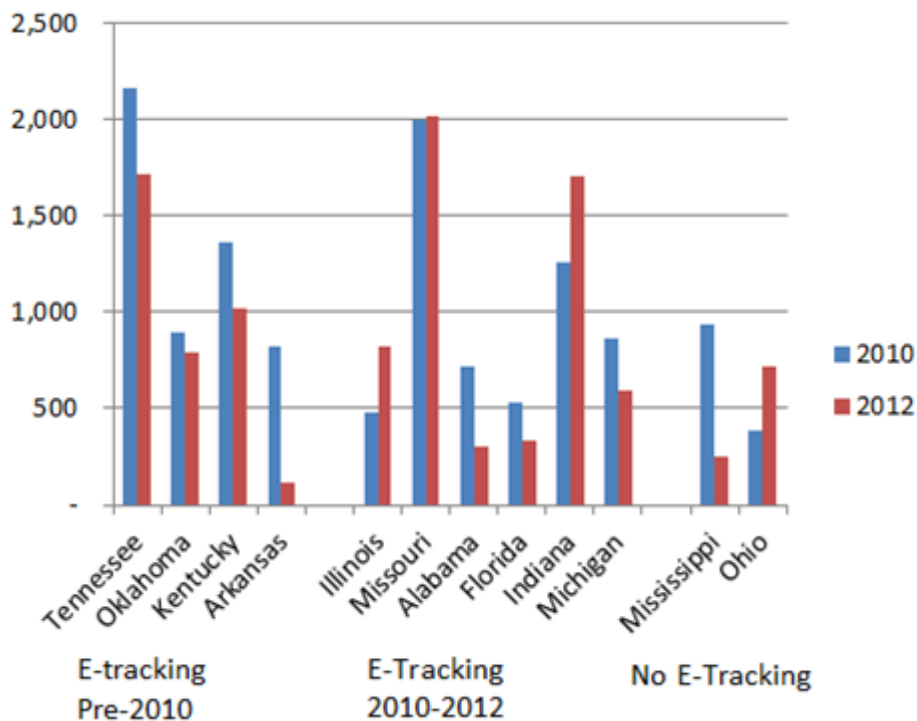


Source: Tennessee Methamphetamine and Pharmaceutical Task Force, Tennessee Methamphetamine Intelligence System, as of 2013.



**Exhibit 9: Reported meth lab incidents in high meth production states – 2010 through 2012**

	Year Statewide E-Tracking Began	Methamphetamine Lab Incidents			Pseudoephedrine Sales Blocked by NPLeX (grams)		
		2010	2012	Percent Change	2010	2011	2012
<b>Tennessee</b>	2005	2,157	1,717	-20%	-	-	3%
<b>Oklahoma</b>	2006	894	791	-12%	-	-	-
<b>Kentucky</b>	2008	1,361	1,015	-25%	2%	3%	3%
<b>Arkansas</b>	2008	825	118	-86%	-	-	-
<b>Illinois</b>	2010	478	823	72%	2%	2%	2%
<b>Missouri</b>	2011	1,998	2,019	1%	-	3%	3%
<b>Alabama</b>	2011	720	299	-58%	-	6%	6%
<b>Florida</b>	2011	528	332	-37%	-	4%	4%
<b>Indiana</b>	2012	1,260	1,707	35%	-	-	5%
<b>Michigan</b>	2012	867	595	-31%	-	-	3%
<b>Mississippi</b>	Rx 2010/ No E-Tracking	937	250	-73%	-	-	-
<b>Ohio</b>	No E-Tracking	387	715	85%	-	-	-



Notes: (1) High meth production states reported over 500 lab incidents to EPIC in 2010 or 2012.  
 (2) Because of EPIC reporting variances and the impact of reduced federal funding for meth lab clean-up in 2011, this analysis focuses on changes in incidents between 2010 and 2012. See Appendix B for additional explanation of the 2011 data limitations.  
 (3) See 2013 OREA report, p.16, for a history of tracking systems used in Tennessee, Oklahoma, and Kentucky prior to their implementation of the National Precursor Exchange (NPLeX). Arkansas continues to use another stop-sale system.  
 (4) Percent of Sales Blocked (grams) included for years that states used NPLeX to electronically track sales of pseudoephedrine.  
 Sources: El Paso Intelligence Center (EPIC), National Seizure System, National Alliance of Model State Drug Laws, and Appriss, Inc.

In 2011, Arkansas limited dispensing of pharmacy precursors to active military personnel and persons with Arkansas drivers' licenses or identification cards. Arkansas also added requirements for pharmacists to make a professional determination of each purchaser's legitimate medical need before dispensing pharmacy precursors. As a result of these additional requirements, some large retailers, including Walmart, decided not to dispense pharmacy precursors in Arkansas without a prescription.<sup>24</sup>

The number of reported meth lab incidents varied in six other high meth production states that have implemented NPLEx since 2010. Reported lab incidents rose in three of the states – Illinois, Indiana, and Missouri – and fell in the other three – Alabama, Florida, and Michigan. Alabama and Florida reported fewer than 500 incidents in 2012; Michigan remained above 500 with 595 labs.

A 2013 study by the Alabama Drug Abuse Task Force attributes Alabama's decrease in meth lab incidents to 2012 legislative changes, which included restricting sales to pharmacies, broader anti-smurfing requirements, requiring a prescription for residents of states that require prescriptions, and modifications to the NPLEx system.<sup>25</sup>

Ohio, which does not require use of electronic tracking such as NPLEx, reported 795 incidents in 2012, a substantial increase of over 300 more incidents than reported in 2010.

For states using NPLEx between 2010 and 2012, the percentage of sales blocked (in grams) ranged from two to six percent. The change in meth lab incidents from 2010 to 2012 does not appear related to the percentage of pharmacy precursor sales blocked as over the sales limit by NPLEx. For example, about two to three percent of sales (in grams) were blocked in Tennessee, Michigan, and Illinois in 2012, but Illinois saw a 72 percent increase in meth lab incidents while Tennessee and Michigan had decreases in meth lab incidents of 20 and 31 percent.

### Impact of NPLEx in Tennessee

#### Change in Meth Lab Incidents

Meth lab incidents since the implementation of NPLEx in January 2012 have not decreased substantially and remain at high levels. In 2012, TMPTF reported 1,811 meth lab incidents, an increase from 1,687 incidents in 2011.<sup>26</sup> Through October 2013, law enforcement agencies have reported 1,485 lab incidents. (See [Exhibit 10](#).) Incidents are down from the highest level of 2,082 in 2010, but remain at high levels compared to other states.

**Exhibit 10: Tennessee meth lab incidents by month, January 2010 through October 2013**

	2010	2011*	2012	2013
January	154	236	153	208
February	140	190	159	213
March	219	77	176	191
April	178	90	146	157
May	140	72	127	146
June	143	86	145	118
July	156	169	149	121
August	162	194	153	110
September	189	157	136	100
October	210	137	168	121
November	214	129	141	
December	177	150	158	
<b>Total</b>	2,082	1,687	1,811	1,485
<b>Average Monthly</b>	173.5	140.6	150.9	148.5

Note: \*The TMPTF attributes the lower level of meth lab incidents from March to June 2011 to the lack of federal funding for meth lab cleanup during that time period.

Source: Tennessee Methamphetamine and Pharmaceutical Task Force, Tennessee Methamphetamine Intelligence System.

For 2013, the number of Tennessee lab incidents reported has declined from a monthly average of 183 for January through May 2013 to 114 for June through October 2013. According to the TMPTF,<sup>27</sup> the recent decrease in labs reported is related to several factors, including:

- a decrease in pharmacy precursor sales, especially the large 3.6 gram boxes preferred by meth producers, resulting from:
  - local prescription-only ordinances passed in 2013,
  - efforts by some local law enforcement agencies to encourage pharmacists to limit pharmacy precursor sales, and
  - a reduction in the number of independent pharmacies selling pharmacy precursors without a prescription;
- targeted investigations and convictions by the U.S. Attorney's Office in counties with a high number of reported lab incidents over time; and
- possible reductions of meth lab enforcement due to a decline in drug case asset forfeitures, which in turn reduces resources available for enforcement and clean-up efforts.

#### *Precursor Sales and Blocked Sales*

Pharmacy precursor purchases for the first ten months of 2013 were 10 percent lower compared to 2012. (See [Exhibit 11.](#)) Estimated sales declined about two percent from 2011 to 2012 following the implementation of NPLEEx.<sup>28</sup>

Blocked purchases as a percentage of all purchase attempts remained low. NPLEEx data indicates that in the first ten months of 2013, approximately two percent of pharmacy precursor purchase attempts were blocked by NPLEEx as over the sales limit; NPLEEx blocked three percent of purchase attempts in the same period in 2012.

The number of purchase attempts blocked declined 34 percent, from 39,352 to 26,041. The amount in grams of purchase attempts blocked declined 30 percent, from 112,507 to 78,236.

According to the Consumer Healthcare Products Association (CHPA), the high level of meth labs discovered in Tennessee is related to the vigilance of law enforcement and the sophistication of the state's meth-related intelligence systems: TMIS, NPLEEx, and the meth offender registry. According to CHPA, there is little correlation between the amount of pseudoephedrine sold and the number of meth labs discovered, and the 2013 decline in pseudoephedrine sales in Tennessee should therefore not be expected to reduce meth lab incidents. CHPA noted that the five percent decline over the past year in the number of unique PSE purchasers in Tennessee shows smurfing and other methods of circumventing NPLEEx, such as false identifications, are not prevalent.<sup>29</sup>

#### ***Number of Purchasers***

From January to June 2013, 460,422 individuals purchased pharmacy precursors, a four percent drop from 2012. As in 2012, 80 percent of purchasers bought less than five grams in the six-month period. The six-month purchase limit is 54 grams. Less than one percent of purchasers (2,576 individuals) bought 30 grams or more.<sup>30</sup> Purchaser estimates for 2013 remain less than 10 percent of the Tennessee adult population (4.9 million).<sup>31</sup>

#### ***Suspicious Sales***

The TMPTF reported in June 2013 that the number of suspicious precursor sales identified by their intelligence system TMIS was down 18 percent in 2013.<sup>32</sup> According to TMPTF officials, the adoption of NPLEEx has made it more difficult to identify suspicious precursor purchases. Unlike TMIS, which flagged sales over the sales limit as suspicious, NPLEEx now blocks sales that would exceed the limits. Another measure of suspicious sales, the number of sales blocked by NPLEEx for being over the sales limits, has also declined. The TMPTF continues to analyze precursor sales data to develop other measures of suspicious sales.<sup>33</sup>

**Exhibit 11: Tennessee pharmacy precursor sales, 2012 and 2013 by month**

**Tennessee Pseudoephedrine Sales 2012**

2012	January	February	March	April	May	June	July	August	September	October	November	December	YTD Total
Purchases	156,875	166,926	175,088	160,051	142,672	120,202	114,455	139,732	145,834	148,303			1,470,138
Blocks	4,776	4,336	4,461	4,107	3,821	3,063	2,782	6,274	2,776	2,956			39,352
%	3%	3%	2%	3%	3%	2%	2%	4%	2%	2%			3%
Grams Sold	311,142	334,039	375,327	348,423	312,312	264,169	251,053	296,711	308,782	311,087			3,113,045
Grams Blocked	13,232	12,368	13,012	12,408	11,362	9,060	8,093	16,154	8,123	8,695			112,507
%	4%	4%	3%	3%	4%	3%	3%	5%	3%	3%			3%

**Tennessee Pseudoephedrine Sales 2013**

2013	January	February	March	April	May	June	July	August	September	October	November	December	YTD Total
Purchases	151,428	145,558	157,941	154,089	148,295	104,954	99,215	118,012	121,579	121,978			1,323,049
Blocks	2,505	2,616	3,487	3,285	3,216	2,310	2,089	2,080	2,260	2,193			26,041
%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%			2%
Grams Sold	311,417	299,903	355,385	340,187	324,825	231,058	215,869	249,790	259,493	258,809			2,846,736
Grams Blocked	7,274	7,663	10,873	10,067	9,787	6,855	6,222	6,226	6,783	6,486			78,236
%	2%	2%	3%	3%	3%	3%	3%	2%	3%	2%			3%

**Percent Change Tennessee Pseudoephedrine Sales , 2012 to 2013**

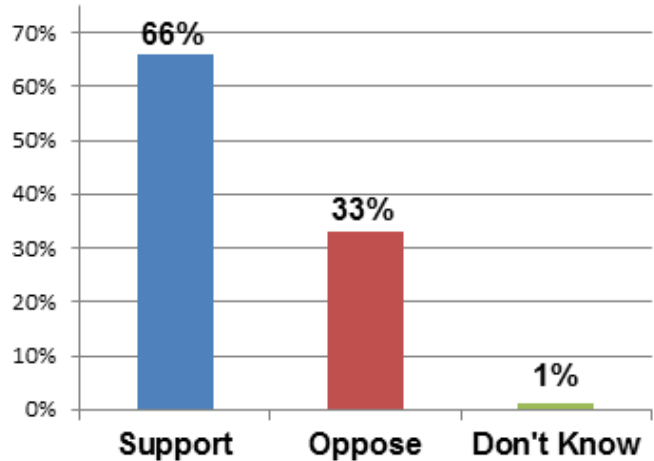
2013	January	February	March	April	May	June	July	August	September	October	November	December	YTD Total
Purchases	-3%	-13%	-10%	-4%	4%	-13%	-13%	-16%	-17%	-18%			-10%
Blocks	-48%	-40%	-22%	-20%	-16%	-25%	-25%	-67%	-19%	-26%			-34%
Grams Sold	0%	-10%	-5%	-2%	4%	-13%	-14%	-16%	-16%	-17%			-9%
Grams Blocked	-45%	-38%	-16%	-19%	-14%	-24%	-23%	-61%	-16%	-25%			-30%

## Tennessee Opinion Polls – 2013

### Vanderbilt University Poll – November to December 2013

Question: Some over-the-counter cold medicines, such as Sudafed, contain an ingredient called pseudoephedrine that is used to make the illegal drug called “meth.” The Tennessee state legislature recently considered making pseudoephedrine a prescription drug to help reduce meth abuse. Do you support or oppose requiring people in Tennessee to get a doctor’s prescription for pseudoephedrine drugs?

Source: Vanderbilt University, Center for the Study of Democratic Institutions.



Sample of 500 adult Tennesseans polled Nov. 20-Dec. 5, 2013. Margin of error plus or minus 5.1 percentage points.

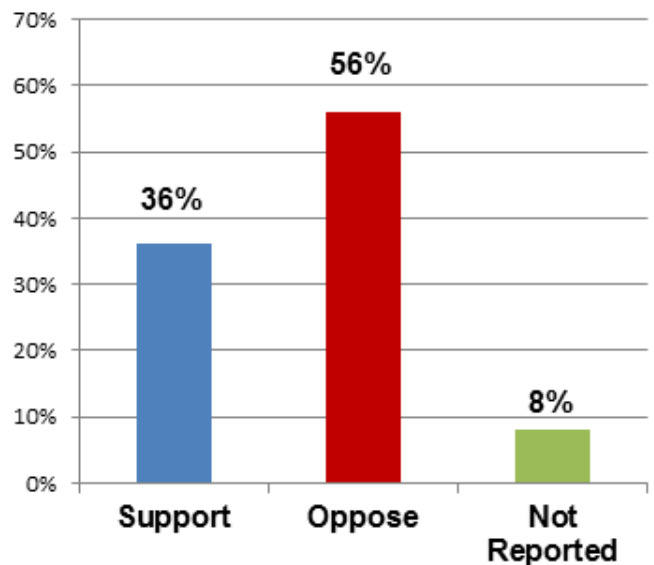
### North Star Opinion Research Poll of Tennessee Voters – February 2013

Commissioned by the Consumer Healthcare Products Association (CHPA)

Question: I would like to ask about a new law being considered in Tennessee that would require everyone who wants to buy decongestant cold or allergy medicines containing pseudoephedrine to first get a prescription from their doctor. Products that are currently available without a prescription, such as Sudafed and Claritin D, would no longer be available without a prescription from a doctor. Do you support or oppose a new law for Tennessee residents that would require a doctor’s prescription to purchase non-prescription medicines containing pseudoephedrine?

Note: Summary documents provided indicate that additional questions were included in the poll; however, CHPA did not provide the full questionnaire to OREA.

Source: North Star Opinion Research, memorandum “Pseudoephedrine Polling,” Dec. 13, 2013 provided by Carlos Gutierrez, Senior Director, State Government Affairs, Consumer Healthcare Products Association.



Sample of 600 Tennessee registered voters polled Feb. 4-6, 2013. Margin of error plus or minus 4 percent.

**Impact of Precursor Prescription-Only Requirements**

**Statewide Prescription-Only Statutes: Oregon and Mississippi**

**Meth lab incidents in 2012 in Oregon remained at low levels and in Mississippi continued to decline. Meth lab incidents in some other nearby states have followed similar trends.** (See Exhibit 12.)

The number of meth lab incidents in Oregon remained very low at 14 incidents in 2012. Other Western states continued to report low levels of meth lab incidents for 2012: eight of nine Western states without prescription requirements reported 21 or fewer lab incidents; California reported 186 incidents, down from 225 in 2010.

Mississippi reported 250 meth lab incidents in 2012, a 73 percent decrease from the 937 incidents reported in 2010, the same year the state’s prescription-only law became effective in July. Lab incident trends for 2010 through 2012 in border and nearby states without a prescription-only law ranged from an 86 percent decrease in Arkansas to a 72 percent increase in Illinois.

As reported by GAO in 2012, officials in both Oregon and Mississippi credited the decline in lab incidents following the enactment of prescription-only requirements with decreasing demand and use of services to respond to reported meth labs, including law enforcement, child welfare, and environmental clean-up. Officials also reported evidence of pseudoephedrine packaging from neighboring states at the meth labs.<sup>34</sup>

**Exhibit 12: Comparisons of prescription-only states to nearby states, 2010 through 2012**

	2010	2011	2012	% Change 2010 through 2012
<b>Oregon</b>	<b>21</b>	<b>11</b>	<b>14</b>	<b>-33%</b>
Arizona	18	5	11	-39%
California	225	167	186	-17%
Colorado	32	13	18	-44%
Idaho	19	8	4	-79%
Nevada	13	17	3	-77%
New Mexico	65	22	21	-68%
Montana	22	11	9	-59%
Utah	10	10	3	-70%
Washington	46	40	13	-72%
<b>Mississippi</b>	<b>937</b>	<b>321</b>	<b>250</b>	<b>-73%</b>
Alabama	720	296	299	-58%
Arkansas	825	325	118	-86%
Louisiana	218	80	84	-61%
Tennessee	2,157	2,339	1,717	-20%
Kentucky	1,361	1,770	1,015	-25%
Florida	528	164	332	-37%
Missouri	1,998	2,120	2,019	1%
Illinois	478	645	823	72%

Notes:

(1) Oregon implemented a prescription-only statute in July 2006. Lab incidents declined from 232 in 2005 to 67 in 2006 following the prescription-only requirement. See Appendix A and 2013 OREA report for more details.

(2) Mississippi implemented a prescription-only statute in July 2010.

Source: El Paso Intelligence Center (EPIC), National Seizure System, as of Oct. 2, 2013.

In a November 2013 follow-up by OREA, the Director of the Mississippi Bureau of Narcotics credits their prescription-only requirement to purchase pseudoephedrine with further reducing meth labs, especially operational labs; the number of drug endangered children; and theft from retail establishments selling pseudoephedrine. He also noted that Mississippi narcotics officers now have more time to investigate drug distribution organizations rather than responding to domestic meth lab incidents on a daily basis. The number of operational labs in Mississippi decreased from 99 in 2011 to 21 in 2012 to eight through October 2013.<sup>35</sup>

A 2013 meth threat assessment from Oregon<sup>36</sup> emphasizes that meth continues to be widely used and trafficked within the state despite the low number of meth lab incidents. Meth continues to be highly available in the area from Mexican drug traffickers who import the finished product from other states and from Mexico. According to a 2012 survey, a majority of Oregon law enforcement officers indicated meth was the greatest drug threat in their jurisdiction. Law enforcement respondents also noted meth's contribution to other crimes, such as identity theft, child abuse and neglect, and serious violent and property crimes.

### ***Local Prescription-Only Ordinances: Missouri and Tennessee***

**Missouri** – As of July 2013, 70 local government jurisdictions across 26 counties had passed prescription-only ordinances.<sup>37</sup> The effective dates of the ordinances varied from July 2009 to June 2013, with 87 percent effective by the end of 2011. Between 2010 and 2012, the number of reported meth lab incidents decreased in 16 of the 26 counties and increased or remained about the same in the remaining 10. The number of incidents reported statewide remained about the same over the same time period.

Rigorous statistical studies of the effectiveness of Missouri's local ordinances are not currently available. The past president of the Missouri Narcotics Officers' Association, however, indicates the effectiveness of the ordinances has varied by jurisdiction, with more of an effect seen in Southeast Missouri where several

jurisdictions have prescription-only ordinances.<sup>38</sup> These counties also border Arkansas and Illinois, which have restrictions on sales of pharmacy precursors to Missouri residents.<sup>39</sup> He noted less of an effect on labs in at least three counties (Jefferson, St. Charles, and Franklin), which are close to areas with a large number of pharmacies that do not require a prescription to purchase pharmacy precursors. Precursors found at lab incidents in these three counties were most often purchased in St. Louis, which does not require a prescription for pharmacy precursors.

**Tennessee Local Governments** – Since June 2013, 18 local governments have passed local ordinances requiring a healthcare provider prescription to purchase pharmacy precursors within their jurisdictions. Sufficient data is not yet available to assess the impact of these ordinances. However, the Winchester Police Chief has noted a decline in the number of meth lab incidents as well as declines in smurfing and associated crimes since the municipal ordinances in Franklin County became effective in June 2013. He indicated that the medical community there is providing prescriptions to patients at no additional charge, either through a call to a pharmacy or a standing prescription available during normal doctors' visits.<sup>40</sup>

Available information from NPLeX<sup>41</sup> indicates that non-prescription purchases of pharmacy precursors in 2013 declined in Franklin County from 926 in January to zero in July through October. Non-prescription precursor purchases by Franklin County residents in any NPLeX pharmacy declined from 933 in January 2013 to 254 in July 2013.<sup>42</sup> In January 2013, about 25 percent of purchases (234 purchases) in Franklin County were by non-Franklin County residents. Meth lab incidents totaled 14 from January through June 2013 and seven from July 2013 through October 2013, the period after the prescription-only requirement went into effect.<sup>43</sup>

On December 6, 2013, the Tennessee Attorney General's Office issued an opinion, which holds that the ordinances violate state law.<sup>44</sup> The impact of this opinion on existing ordinances cannot yet be determined.

## **Impact of Federal Funding on Meth Production Enforcement and Cleanup Costs in Tennessee**

**Federal funding to support local meth enforcement and required lab clean-up remains uncertain.**<sup>45</sup> The TMPTF expects the majority of its federal Community Oriented Policing Services (COPS) funds to be exhausted by the end of 2013 or early 2014. These funds are typically used for the operation of the TMPTF and a number of meth-related local law enforcement efforts, including the clean-up and disposal of meth labs. No new funds are expected. Absent another funding source for the coordinating efforts of the TMPTF, local law enforcement agencies will be solely responsible for funding meth enforcement and lab clean-up efforts. Federal funds were not available between March and June 2011.<sup>46</sup> The TMPTF and narcotics officials in other states have attributed the lower level of meth lab incidents reported during this time period to a less proactive effort by law enforcement to discover meth labs because of the absence of federal funding for lab site cleanup.

In FY2012-13, the TMPTF received additional non-recurring funding from the Drug Enforcement Administration to train some local lab clean-up technicians and to replace some protective equipment shared by local law enforcement agencies. The continuation of this funding, or the level of funding should it be continued, remains uncertain. The Tennessee Office of Criminal Justice Programs committed \$100,000 of criminal justice federal grants for FY2013-14 toward the funding of the statewide regional Authorized Central Storage (ACS) Container program.<sup>47</sup> The core staff of the TMPTF has state funding through June 30, 2014, which includes some limited local assistance in lab cleanup by regional incident response trucks.

## **Locking Technology**

In early 2012, two pharmaceutical companies announced new “locking” technology that makes the conversion of pseudoephedrine into meth more difficult. Two “meth-resistant” pseudoephedrine products – Nexafed and Zephrex-D – are now available in many pharmacies nationwide.<sup>48</sup> A study published in *The American Journal of Drug and Alcohol Abuse* in 2013 found that Nexafed is as effective for its intended medical use as another pseudoephedrine product without the abuse-deterrent technology. The study also found that the “Nexafed’s Impede<sup>®</sup> technology limited the extraction and/or conversion of pseudoephedrine to methamphetamine.”<sup>49</sup> In December 2012, the Drug Enforcement Administration (DEA) denied an effort to lift the pseudoephedrine sales limitations for Zephrex-D after DEA agents successfully produced meth using the product.<sup>50</sup> A 2013 news report indicated that all family-owned pharmacies in Scott County, Tennessee, have switched to selling only meth-resistant pseudoephedrine products without a prescription to deter meth production.<sup>51</sup> Meth-resistant products, such as Zephrex-D and Nexafed, are regulated in the same manner as other pseudoephedrine products.



## Endnotes

- <sup>1</sup> As explained in Appendix B and in the 2013 OREA report, Tennessee lab incidents are those reported through the Tennessee Methamphetamine Intelligence System (TMIS). However, if used in direct comparison to other states, data from the Drug Enforcement Administration's El Paso Intelligence Center (EPIC), National Seizure System is used.
- <sup>2</sup> The TMPTF attributes the 2011 decline in reported incidents to unavailability of federal funding between March and June 2011 for clean-up. See Appendix B for further explanation.
- <sup>3</sup> See Exhibits 8 and 10 for more detailed information and the trends in meth lab incidents in Tennessee.
- <sup>4</sup> National figures are based on lab incidents reported to the El Paso Intelligence Center (EPIC), National Seizure System, as of October 2, 2013, for 2011 to 2012 and October 4, 2012, for 2000 to 2010. See Appendix B and 2013 OREA report for EPIC data limitations, especially for 2011. Given such data limitations, comparisons based on the number of lab incidents reported to EPIC are based on the relative differences among states, not specific numbers.
- <sup>5</sup> Includes counties with 30 or more labs reported in 2012.
- <sup>6</sup> The TMPTF uses the federal judicial districts in Tennessee to define regions.
- <sup>7</sup> Tennessee Department of Correction, Mary Karpos, Director, Decision Support, Research and Planning, e-mail, Nov. 5, 2013. An additional 990 felons convicted with a meth-related offense were under TDOC Community Correction supervision in 2013.
- <sup>8</sup> Bonnie Hommrich, Deputy Commissioner, Tennessee Department of Children's Services, e-mail, Nov. 22, 2013.
- <sup>9</sup> Substance Abuse and Mental Health Services Administration, *Results from the 2012 National Survey on Drug Use and Health: Summary of National Findings*, NSDUH Series H-46, HHS Publication No. (SMA) 13-4795, Rockville, MD: Substance Abuse and Mental Health Services Administration, 2013, pp. 1, 4, 15, and 59, <http://www.store.samhsa.gov/home> (accessed Nov. 12, 2013).
- <sup>10</sup> Governor's Public Safety Action Plan and Quarterly Action Step Implementation Plans, obtained from Tennessee Department of Safety, 3<sup>rd</sup> Quarter, Sept. 2013.
- <sup>11</sup> OREA review of Tennessee General Assembly Bill Index, Oct. 2013.
- <sup>12</sup> The nasal decongestant pseudoephedrine is the primary precursor used in current meth productions, but the more general term "pharmacy precursor" is used to include ephedrine and other drugs that may potentially be used in production methods.
- <sup>13</sup> Under current law, pseudoephedrine products are classified as an "over-the-counter product," but sales are limited to behind a pharmacy counter, quantity limits, purchaser identification, and logging of sales.
- <sup>14</sup> Chief Dennis Young, Winchester Police Department, e-mail, Nov. 15, 2013.
- <sup>15</sup> Tennessee Attorney General, *Opinion No. 13-99*, Dec. 6, 2013, <http://www.tn.gov/> (accessed Dec. 10, 2013).
- <sup>16</sup> Governor's Public Safety Action Plan and Action Step Implementation Plans, obtained from Tennessee Department of Safety, 3<sup>rd</sup> Quarter, Sept. 2013.
- <sup>17</sup> The program is also available to pharmacies in other states. Consumer Healthcare Products Association, <http://meth-knowtheconsequences.org> (accessed Dec. 1, 2013).
- <sup>18</sup> NPLEx is a real-time, stop-sale electronic tracking system for pharmacy precursor sales. Appriss, Inc., developed and operates NPLEx for states requiring its use, as well as for many pharmacies in other states.
- <sup>19</sup> National Alliance for Model State Drug Laws, "Compilation of Maps and Charts Relating to Policies Governing Over-the-Counter Sales of Products Containing Ephedrine and Pseudoephedrine," revised April 23, 2013, <http://www.namsdl.org/> (accessed Nov. 12, 2013).
- <sup>20</sup> National Alliance for Model State Drug Laws, "Compilation of Maps and Charts Relating to Policies Governing Over-the-Counter Sales of Products Containing Ephedrine and Pseudoephedrine," revised April 23, 2013, and OREA analysis of other states' enhanced methamphetamine precursor control policies.
- <sup>21</sup> Appriss, Inc., e-mail, Nov. 6, 2013.
- <sup>22</sup> Appriss, Inc., e-mail, Nov. 6, 2013. Confirmed with Debbie Mack, Sr., Director, Walmart Practice Compliance, e-mail, Nov. 20, 2013.
- <sup>23</sup> Legislature of Alabama, *Alabama Acts 2012-237*, <http://arc-sos.state.al.us/> (accessed Dec. 10, 2013).
- <sup>24</sup> U.S. Government Accountability Office (GAO), *State Approaches to Control Access to Key Methamphetamine Ingredients Show Varied Impact on Domestic Drug Labs*, GAO 13-204, Jan. 2013, p. 31, <http://www.gao.gov/> (accessed Nov. 12, 2013). Confirmed with Debbie Mack, Sr. Director Walmart Practice Compliance, e-mail, Nov. 20, 2013.
- <sup>25</sup> Alabama Drug Task Force: Subcommittee on Pseudoephedrine/Ephedrine and Methamphetamine, Report to the Alabama Legislature, May 17, 2013, pp. 9 and 22.

- <sup>26</sup> See Appendix B for a more detailed explanation of the data used in this analysis and its limitations.
- <sup>27</sup> Tommy Farmer, Director, and Jim Derry, Criminal Analyst, Tennessee Methamphetamine and Pharmaceutical Task Force, interview, Oct. 25, 2013.
- <sup>28</sup> Data for Jan. to June 2011 and 2012 provided to OREA by the TMPTF from the Tennessee Methamphetamine Intelligence System, Aug. 2012. Pharmacies were not required to submit data to TMIS in 2011. Data for 2011 was provided by about 65 percent of pharmacies to TMIS; data for 2012 and 2013 is from NPLeX.
- <sup>29</sup> Carlos Gutierrez, Director, State Government Relations, Consumer Healthcare Products Association, e-mail, Nov. 18, 2013.
- <sup>30</sup> Appriss, Inc., National Precursor Log Exchange data extract, e-mail, Nov. 11, 2013.
- <sup>31</sup> Information was not readily available to exclude out-of-state residents purchasing pseudoephedrine in Tennessee.
- <sup>32</sup> Tennessee Methamphetamine and Pharmaceutical Task Force, Meth Seizure Report, June 2013.
- <sup>33</sup> Tommy Farmer, Director, and Jim Derry, Criminal Analyst, Tennessee Methamphetamine and Pharmaceutical Task Force, interview, Oct. 25, 2013.
- <sup>34</sup> U.S. Government Accountability Office, *State Approaches to Control Access to Key Methamphetamine Ingredients Show Varied Impact on Domestic Drug Labs*, GAO 13-204, Jan. 2013, p. 33, <http://www.gao.gov/> (accessed Nov. 12, 2013).
- <sup>35</sup> Marshall Fisher, Director, Mississippi Bureau of Narcotics, e-mail, Nov. 18, 2013.
- <sup>36</sup> Oregon Department of Justice, HIDTA Program, 2013 Threat Assessment and Counter-Drug Strategy, pp. 1 and 2.
- <sup>37</sup> Missouri State Highway Patrol, Division of Drug and Crime Control, e-mails, Oct. 17 and Dec. 3, 2013. Missouri counties with county-wide prescription-only ordinances include: Butler, Franklin, McDonald, Ripley, St. Charles, and Jefferson. Within these counties, 31 cities or towns also have prescription-only ordinances. An additional 33 cities or towns in 20 different counties have local prescription-only ordinances; in some cases the local jurisdiction includes all pharmacies within the county.
- <sup>38</sup> Jason Grellner, Franklin County, Missouri, Narcotic Enforcement Unit and Past President, Missouri Narcotics Officers' Association, telephone interview, Dec. 12, 2013.
- <sup>39</sup> Arkansas requires Arkansas identification to purchase pharmacy precursors. Also, many pharmacies in Arkansas now require a prescription to purchase precursors. According to Sgt. Grellner, some larger pharmacy chains have an agreement with the Illinois Attorney General to only sell pharmacy precursors to individuals that have filled prescriptions for other medications at an Illinois pharmacy.
- <sup>40</sup> Chief Dennis Young, Winchester Police Department, e-mail, Nov. 15, 2013.
- <sup>41</sup> Tennessee Methamphetamine and Pharmaceutical Task Force, based on data from the National Precursor Log Exchange, transmitted by Appriss, Inc., as of Nov. 7, 2013.
- <sup>42</sup> Non-prescription purchases by Franklin County residents beginning in July 2013 would have been at stores in other counties. Any prescription sales are not recorded in NPLeX.
- <sup>43</sup> Tennessee Methamphetamine and Pharmaceutical Task Force, Tennessee Methamphetamine Intelligence System.
- <sup>44</sup> Tennessee Attorney General, *Opinion No. 13-99*, Dec. 6, 2013, <http://www.tn.gov/> (accessed December 10, 2013).
- <sup>45</sup> See 2013 OREA report for more detailed information on federal funding for state and local efforts to eliminate meth production in Tennessee, pp. 32 to 34.
- <sup>46</sup> Tommy Farmer, Director, Tennessee Methamphetamine and Pharmaceutical Task Force, e-mail, Nov. 17, 2013.
- <sup>47</sup> The ACS program uses trained state and local law enforcement officers to remove the chemicals from smaller (one pot) labs and temporarily store them in regional safe and secure locations for later pickup by DEA hazardous waste vendors.
- <sup>48</sup> Westport Pharmaceuticals, "First and Only Pseudoephedrine Product to Stop "One Pot" Meth Now in Pharmacies Nationally," press release, Sept. 5, 2013, <http://zephrex-d.com/> (accessed Nov. 20, 2013). Acura Pharmaceuticals, "Acura Pharmaceuticals Provides Update on Nexafed® Launch," press release, Sept. 18, 2013, <http://investors.acurapharm.com/> (accessed Nov. 20, 2013).
- <sup>49</sup> Albert W. Brzezczko, Ronald Leech, Jeffrey G. Stark, "The advent of a new pseudoephedrine product to combat methamphetamine abuse," *The American Journal of Drug and Alcohol Abuse*, 2013, Vol., 39, No. 5, pp. 284-290, <http://informahealthcare.com/> (accessed Sept. 30, 2013).
- <sup>50</sup> James P. Scroba, Special Agent in Charge, Drug Enforcement Administration, letter to Paul Hemings, Vice President, Westport Pharmaceuticals, May 6, 2013. Provided by Carlos Gutierrez, State Government Relations, Consumer Healthcare Products Association.
- <sup>51</sup> Associated Press, "Scott County pharmacies switch brands to foil meth," May 31, 2013, <http://www.timesfreepress.com/> (accessed Nov. 20, 2013).

## Appendix A: EPIC Methamphetamine Lab Incidents by State, 2000 through 2012

State	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Alabama	105	231	343	524	804	529	273	249	624	673	720	296	299
Alaska	29	14	35	54	121	68	20	7	19	13	22	5	4
Arizona	478	357	294	261	221	140	50	23	34	25	18	5	11
Arkansas	410	563	646	1171	1361	701	450	380	419	673	825	325	118
California	2277	1992	1792	1319	873	525	462	323	422	329	225	167	186
Colorado	203	309	527	524	421	276	137	75	62	48	32	13	18
Connecticut	0	2	2	2	0	5	5	2	2	4	2	0	4
DC	0	0	0	0	1	0	0	0	0	0	2	1	0
Delaware	2	0	0	2	3	1	0	0	1	1	3	2	14
Florida	19	44	190	321	441	471	205	186	214	415	528	164	332
Georgia	73	111	224	441	549	434	192	119	197	217	334	142	94
Hawaii	7	5	12	5	17	18	4	1	0	0	3	0	0
Idaho	161	146	134	121	75	35	23	23	14	17	19	8	4
Illinois	170	409	711	1084	1582	1431	864	401	379	416	478	645	823
Indiana	367	526	765	1049	1385	1508	838	815	739	1328	1260	1448	1707
Iowa	290	585	925	1473	1688	915	364	198	242	336	381	423	411
Kansas	687	850	793	707	650	418	195	101	162	185	244	222	159
Kentucky	116	186	388	517	624	616	336	310	442	744	1361	1770	1015
Louisiana	19	19	146	138	179	144	28	54	45	163	218	80	84
Maine	2	4	0	0	4	6	5	1	4	1	6	6	14
Maryland	0	2	2	2	4	5	9	2	2	0	3	1	1
Massachusetts	0	2	3	2	3	8	6	6	4	4	2	2	5
Michigan	24	134	264	376	461	514	290	213	457	718	867	445	595
Minnesota	165	215	337	483	289	170	69	48	46	31	27	9	8
Mississippi	147	264	529	459	562	360	299	182	440	960	937	321	250
Missouri	936	2202	2771	2899	2927	2343	1329	1295	1522	1814	1998	2120	2019
Montana	35	76	104	132	107	36	13	10	11	18	22	11	9
Nebraska	38	209	373	294	328	288	35	30	67	40	27	19	11
Nevada	286	267	108	250	153	86	44	24	17	16	13	17	3
New Hampshire	1	3	1	2	2	9	6	5	1	7	11	23	19
New Jersey	0	3	3	1	3	4	8	2	4		1	0	2
New Mexico	81	148	170	306	227	103	52	46	74	68	65	22	21
New York	2	9	31	35	70	27	45	17	20	20	34	50	152
North Carolina	19	38	73	224	474	493	219	161	197	216	239	404	465
North Dakota	36	88	211	262	239	175	43	27	35	35	8	9	15
Ohio	37	102	141	231	535	671	376	233	260	344	387	368	715
Oklahoma	517	953	1055	1428	916	329	223	114	194	792	894	1028	791
Oregon	395	633	618	584	632	232	67	43	48	17	21	11	14
Pennsylvania	9	20	34	66	139	103	65	19	24	62	49	10	125
Rhode Island	0	1	4	1	0	0	2	0	0	0	0	2	1
South Carolina	6	12	70	170	343	254	113	68	130	244	345	344	452
South Dakota	8	24	38	49	37	26	15	13	11	9	22	5	11
Tennessee	317	634	818	1604	2378	1762	907	603	834	1501	2157	2339	1717
Texas	542	765	683	870	743	442	188	158	250	275	194	90	35
Utah	275	203	153	113	107	68	39	8	15	15	10	10	3
Vermont	0	0	0	0	1	2	0	2	0	0	4	0	4
Virginia	1	5	10	46	110	87	22	25	21	29	107	202	268
Washington	994	1486	1441	1008	966	547	338	241	127	70	46	40	13
West Virginia	3	21	67	106	329	445	166	113	116	139	207	93	59
Wisconsin	31	52	96	128	111	80	34	8	18	27	48	43	34
Wyoming	13	39	68	36	27	13	6	9	7	0	12	3	7
<b>Totals</b>	<b>10,333</b>	<b>14,963</b>	<b>18,203</b>	<b>21,880</b>	<b>24,222</b>	<b>17,923</b>	<b>9,479</b>	<b>6,993</b>	<b>8,973</b>	<b>13,059</b>	<b>15,438</b>	<b>13,763</b>	<b>13,121</b>

Source: El Paso Intelligence Center (EPIC), National Seizure System, unpublished data (extracted October 4, 2012 for 2000 through 2010 data and October 2, 2013 for 2011 and 2012 data).

### Report Terminology

**Pharmacy precursors** – The over-the-counter pharmaceutical products required to produce methamphetamine and includes pseudoephedrine and ephedrine. The nasal decongestant **pseudoephedrine** is the primary precursor used in current meth production methods, but the more general term of “pharmacy precursor” is used to include ephedrine and other drugs that may potentially be used in production methods.

**Methamphetamine lab Incident** – The discovery by law enforcement of methamphetamine lab(s) or equipment, chemicals, and lab waste, regardless of volume, which requires processing and cleanup. Sources and limitations of incident data are discussed below.

**Small labs** – The illicit production of methamphetamine in smaller-quantity domestic labs. This includes “one pot” or “shake and bake” labs that produce less than two ounces of methamphetamine in a small bottle, such as a one- or two-liter bottle. This is in comparison to “super labs” that can produce over 10 pounds of meth in 24 hours. Super labs are more prevalent in Mexico and California. According to TMPTF, most meth used in Tennessee comes from small-capacity labs and is not imported from Mexico or other states. The focus of this report is on small labs.

**EPIC** – El Paso Intelligence Center. EPIC is part of the federal Drug Enforcement Administration and maintains the National Seizure System, a repository of methamphetamine lab incidents reported by law enforcement agencies.

**TMPTF** – Tennessee Methamphetamine and Pharmaceutical Task Force.

**NPLeX** – National Precursor Log Exchange.

**Smurf** – To exceed the individual pseudoephedrine purchase limitation, meth producers pay others – commonly referred to as “smurfs” – to purchase the required pseudoephedrine used to produce methamphetamine.

### Data Limitations

#### **Measurements of Methamphetamine Production**

**Measurements of the extent of methamphetamine use and the illegal possession and production of methamphetamine are limited.** Crime statistics should be interpreted with care. Arrest and conviction statistics represent culminating actions of investigations and may underestimate patterns of criminal activity that are involved in methamphetamine production. Data on the number of offenders arrested for methamphetamine offenses and the number of clandestine methamphetamine labs seized reflects the prevalence of that illegal activity to an extent, but also reflects the ability and emphasis of law enforcement on discovering such activity and the availability of funds to pay for the cleanup of the toxic waste left by methamphetamine labs.

It is difficult to prove a causal relationship between changes in public policy and changes in trends of crime statistics or drug use statistics. Such statistics may be affected by numerous factors other than a particular public policy, and trend changes may be influenced by availability of other sources of the drug or by changes in the choice of drugs.

### *EPIC Data Limitations*

The primary source of information on methamphetamine production has been the number of methamphetamine lab incidents that law enforcement agencies *voluntarily report* to the Drug Enforcement Administration's El Paso Intelligence Center (EPIC). EPIC maintains the only national database<sup>1</sup> of such incidents, but has not been considered a complete record of all incidents because of incomplete reporting or processing variations.<sup>2</sup> The number of incidents reported by EPIC follow the trends reported in Tennessee and nationally and are used in most studies of methamphetamine production. For those reasons, and because other more complete quantitative measures are not available, this study uses EPIC methamphetamine lab data as a measure of the impact of precursor control policies.

To improve their records, between June and October 2012 EPIC added over 30,000 lab incidents to their database. These incidents had received clean-up funding from the Drug Enforcement Administration between 2000 and 2011, but corresponding incidents were not found in the EPIC database. When comparing states, this study reports the revised EPIC lab incident statistics as of October 2, 2013, unless specifically noted.

Tennessee specific data used in this report are the incidents reported by the Tennessee Methamphetamine and Pharmaceutical Task Force (TMPTF). The TMPTF developed a procedure through the Tennessee Methamphetamine Intelligence System (TMIS) to ensure more accurate reporting of incidents. The TMPTF has been working with EPIC to reconcile the number of incidents reported by EPIC. In 2011, the number of TMIS incidents was 1,687, as compared to 2,339 EPIC incidents for the same year. For 2012, TMIS incidents totaled 1,811, while EPIC incidents totaled 1,717.

Several factors affected the comparability of the EPIC lab incidents reported in 2011 to other years. This report primarily compares data on lab incidents in 2010 and 2012. EPIC lab incident statistics for six Southern or Midwestern states (AL, AR, FL, GA, LA, MI) in 2011 were significantly lower than 2010. Follow-up with law enforcement officials in those states by OREA indicated the decrease primarily reflects the loss of federal clean-up funding in 2011. Without federal funds for clean-up, law enforcement agencies were less proactive in searching for methamphetamine labs. Also, many states required EPIC reporting when federal funds were used to clean up labs; without the funding, local agencies were less likely to report incidents to EPIC. Tennessee's revised EPIC numbers for 2011 are significantly greater than reported by the TMPTF.

### **Methamphetamine Use Statistics**

Drug abuse statistics primarily rely on accurate responses to household surveys on whether an individual has used or is using an illegal drug. Critics indicate that many drug abusers tend to not reply honestly, if at all, about their drug abuse, or that they may be excluded from the populations sampled, e.g. those in treatment, incarcerated, or homeless. Also, statistics on individuals receiving treatment services may reflect the funding available for such services, not necessarily the full need for such services.

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<sup>1</sup> EPIC's methamphetamine lab incident database is the National Clandestine Laboratory Seizure System (NCLSS). References in this report to EPIC data refer to data from the NCLSS.

<sup>2</sup> U.S. Department of Justice, Office of Inspector General, Evaluation and Inspections Division, "Review of the Drug Enforcement Administration's El Paso Intelligence Center," June 2010, p. 3, <http://www.justice.gov/> (accessed Nov. 2, 2012).

## Appendix C: Overview of Tennessee's Methamphetamine-related Laws

### Criminal Penalties

#### Public Acts 2004, Ch. 845

- Establishes a criminal offense for a person to possess methamphetamine or acquire by theft with the intent to manufacture or convey to another person for their use to manufacture.

#### Public Acts 2007, Ch. 143

- Provides that a violation with possession of methamphetamine greater than 5 grams is a state offense and should be tried in a state court. All fines and forfeitures of bonds should be paid to the appropriate state agency.

#### Public Acts 2010, Ch. 899

- Makes it a Class B misdemeanor to enter onto the quarantined property without authorization from the federal, state, county or municipal government.

#### Public Acts 2011, Ch. 292 – “I Hate Meth Act”

- Increases the penalty for making methamphetamine in the presence of children and imposes a minimum mandatory fine on offenses.

#### Public Acts 2012, Ch. 764

- Identifies “smurfing” as a criminal penalty.

### Precursor Control

#### Public Acts 2005, Ch. 18 – “Meth-Free Tennessee Act of 2005”

- Establishes precursor control for ephedrine and pseudoephedrine products.
- Places pseudoephedrine and ephedrine products behind the pharmacy in a locked case within 25 feet of the counter to be dispensed by a licensed pharmacist.
- Requires government-issued identification at the point-of-sale.
- Quantity restrictions no more than 3.6 grams per day and 9 grams during a 30-day period .
- Requires a written log of all purchases of pseudoephedrine and ephedrine products to be kept by the pharmacy.
- Creates the methamphetamine registry within the Tennessee Bureau of Investigations.

#### Public Acts 2011, Ch. 292 – “I Hate Meth Act”

- Tracks the sale of products containing pseudoephedrine and ephedrine by the use of NPLeX.
- Requires government-issued photo identification at the point-of-sale.
- Requires patient counseling by licensed pharmacist or pharmacist intern involving the sale of pseudoephedrine and ephedrine based products.
- Blocks the sale of precursors from convicted offenders placed on the Methamphetamine Registry.

### Public Awareness and Education

#### Public Acts 2009, Ch. 186, § 17

- Amends the “Comprehensive Alcohol and Drug Treatment Act of 1973” allowing the Department of Education to raise public awareness concerning the dangers of methamphetamine. This act also requires individuals who receive counseling to pay the necessary cost. Individuals who are unable to pay the cost will not be denied counseling.

### Quarantine of Properties

#### Public Acts 2004, Ch. 855

- Creates the quarantine of properties for hazardous sites containing methamphetamine and authorizes the Commissioner for the Department of Environment and Conservation to oversee the functions for the clean-up of the sites.
- Provides authority for local courts to grant or deny petitions relative to the quarantine of properties and allows restitution to be paid by the defendant.

#### Acts 2005, Ch. 347

- Amends the “Meth-Free Tennessee Act of 2005” creating the notice of methamphetamine lab quarantine form to be completed by law enforcement and filed in the county register’s office.
- Creates the certificate of fitness form to be completed by the certified industrial hygienist.



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