



Preliminary Report:
Governor's Working Group on
Methamphetamine Use

April 1, 2007

Jim Gibbons
Governor

Catherine Cortez Masto
Attorney General
Chairwoman

TABLE OF CONTENTS

Executive Order.....	3
Executive Summary.....	4
Introduction.....	6
Working Group Members.....	8
Preliminary Information on Methamphetamine Use in Nevada.....	9
Scope of the Methamphetamine Problem in Nevada.....	11
Substance Abuse Prevention and Education	13
Substance Abuse Treatment.....	16
Law Enforcement.....	18
Proposed Legislation Overview.....	19
Flexible Use of Funding.....	24
Conclusion.....	25



EXECUTIVE ORDER BY THE GOVERNOR

**ESTABLISHING A WORKING GROUP TO STUDY AND MAKE
RECOMMENDATIONS CONCERNING THE ISSUE OF METHAMPHETAMINE USE
IN NEVADA**

WHEREAS, the problem of methamphetamine use is on the increase throughout Nevada; and

WHEREAS, such use is amounting to crisis levels in some areas of Nevada; and

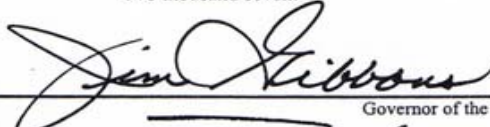
WHEREAS, the growing methamphetamine problem taxes the resources of law enforcement, causes serious harm to individuals and families and adversely impacts the economy; and

WHEREAS, Article 5, Section 1 of the Nevada Constitution provides that "The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada."


NOW, THEREFORE, in order to address the various problems posed by methamphetamine use in Nevada, this Executive Order is hereby issued and a Governor's Working Group on Methamphetamine Use in Nevada is hereby created. The Working Group shall evaluate the impact of methamphetamine use in Nevada, and shall specifically evaluate: impacts on law enforcement, prison and detention resources; sources and manufacture of methamphetamines; preventative and punitive measures against methamphetamine users and suppliers; rehabilitation and recovery options for methamphetamine users; youth education and awareness programs; education and awareness programs for family and friends of users; and the impact of methamphetamine use on the economy. The Working Group may hold public hearings and may form sub-committees to consider and report on particular issues. The Working Group shall issue a preliminary report and recommendation addressing possible solutions, including proposed corrective legislation, to the Governor and the Legislature by April 1, 2007. The Working Group shall issue a final report and recommendation, including an analysis of any Legislative action, to the Governor by December 31, 2007. The Working Group shall consist of ten members and each member will be appointed by the Governor and will serve at his pleasure. The first member and chairperson of the Working Group shall be the Attorney General Catherine Cortez Masto. The authority of the Working Group to act will dissolve on December 31, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City this 22nd day of January, in the year two thousand seven.

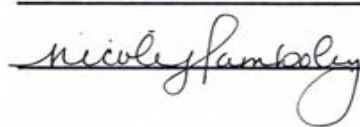




Governor of the State of Nevada

By the Governor: 

Secretary of State of Nevada



Deputy

NOTE: In later amended Executive Orders, the Governor's Working Group on Methamphetamine Use was expanded from 10 to 15 members, and then from 15 to 16.

EXECUTIVE SUMMARY

The following is a summary of the preliminary findings and recommendations of the Governor's Working Group on Methamphetamine Use that were forwarded to Governor Jim Gibbons and the Legislature by April 1, 2007, as required by the Executive Order forming the Working Group on January 22, 2007. The purpose of this Preliminary Report is to provide the Governor and the 2007 Legislature with information and recommendations to address the negative impacts methamphetamine use and distribution are having on our state. This is just the first step in the fight. The final report by the Working Group, due by December 31, 2007, will be a more comprehensive analysis on the issue and will further evaluate the following areas:

- Impacts on law enforcement, prison, and detention resources.
- Sources and manufacture of methamphetamines.
- Preventative and punitive measures against methamphetamine users and suppliers.
- Rehabilitation and recovery options for methamphetamine users.
- Youth education and awareness programs.

The findings and recommendations in the Preliminary Report by no means represent an exhaustive or comprehensive overall solution to the methamphetamine problem in Nevada. The recommendations made in this report are initial steps in areas the Working Group will continue to explore over the next nine months.

In preparation for the Preliminary Report, the 16 member Working Group met three times during the month of March, at which time the Working Group heard testimony from various organizations, groups, and individuals detailing the tremendous problem and toll methamphetamine use is extracting on our society. The Working Group also heard about promising prevention, education, and treatment programs that are being used successfully in Nevada and in our nation to combat methamphetamine addiction and use.

The Working Group recognized four areas where resources could best be applied to make initial progress in the fight against methamphetamine: Prevention and Education, Treatment, Law Enforcement, and new Legislation. Members of the Working Group conducted research in each of these areas and adopted eleven recommendations that are included in the Preliminary Report to the Governor and state Legislature.

Substance Abuse Prevention and Education Recommendations:

The Working Group made four recommendations in the area of substance abuse prevention and education: (1) replacement of lost federal grants to support community coalitions and local prevention programs, (2) the allocation of monies to the Department of Health and Human Resources for education/awareness programs, (3) support for the requirement that community coalitions demonstrate collaboration with local agencies and law enforcement, and (4) support for the further study of the impact of methamphetamine on Nevada's workforce.

Substance Abuse Treatment Recommendations:

The Working Group made three recommendations in the area of substance abuse treatment: (1) funding to address waiting lists for treatment beds for methamphetamine addicts, (2) funding for Southern Nevada programs to address co-occurring disorder treatment, and (3) encourage local governments to further analyze local treatment needs in correctional centers.

Law Enforcement Recommendations:

The Working Group supports increased funding to hire additional law enforcement officers to be placed on existing and new task forces across the state.

Legislation Recommendations:

The Working Group analyzed the existing legislative bills currently under consideration by the 2007 Nevada State Legislature. After discussion, the Working Group chose to give its support for three bills, SB 112, AB 148 and AB 149. The Working Group also prepared concerns for lawmakers regarding AB 150, and voted to recommend that lawmakers vote down the passage of two bills, AB 116 and AB 281.

INTRODUCTION

On January 22, 2007, Governor Jim Gibbons issued an Executive Order commissioning the Governor's Working Group on Methamphetamine Use in Nevada. The Working Group is comprised of 16 appointed members from law enforcement, state legislature, social service agencies, local elected officials, schools, and private and public sector leadership, to study the impact of methamphetamine use in Nevada.

The Executive Order directed the Working Group to specifically evaluate and make suggestions for improvements pertaining to several areas of impact:

- Impacts on law enforcement, prison and detention resources.
- Sources and manufacture of methamphetamine.
- Preventive and punitive measures against methamphetamine users and suppliers.
- Rehabilitation and recovery options for methamphetamine users.
- Youth education and awareness programs.
- Education and awareness programs for family and friends of users.
- Impact of methamphetamine use on Nevada's economy.

Governor Gibbons included a total of \$17.4 million in General Fund support in the proposed 2008-09 *Executive Budget* to be used for substance abuse education, prevention, treatment, and law enforcement activities designed to curtail methamphetamine use in Nevada:

- \$100,000 to support the efforts of the Working Group.
- \$2 million over the 2008-09 Biennium to improve community awareness and education.
- \$5.3 million to replace the loss of a federally funded Incentive Grant focused on prevention activities.
- \$3.8 million to help address treatment waiting lists.
- \$3 million for treatment of individuals with both mental health and substance abuse problems.
- \$3.2 million to increase state law enforcement efforts.

The Working Group was tasked with issuing a Preliminary Report to the Governor by April 1, 2007, that included recommendations addressing possible solutions and proposed legislation that would assist the state in its goal of curtailing methamphetamine use in Nevada.

The Working Group met three times during the month of March. The first meeting on March 1 was used to organize the workload, establish a process for adhering to the goals outlined in the Executive Order, and to hear presentations about the impact of methamphetamine use in Nevada. During that meeting, the Working Group divided the workload into the following four categories for further research and fact-finding: prevention and education, treatment, law enforcement, and legislation. On March 15, the subcommittees presented their fact-finding information on the four categories to the Working Group. After hearing the presentations and from public comment, the Working Group voted on the recommendations to be included in the

Preliminary Report due on April 1, 2007. The final Working Group meeting on March 27 was dedicated to reviewing the draft of the Preliminary Report in preparation for finalizing the April 1, 2007, report to the Governor.

The Working Group, which was authorized to continue working to identify additional problems and solutions through December 31, 2007, passed a motion to meet on the second Thursday of each month, beginning in May, through December 6, 2007. A final report from the Working Group will be delivered to the Governor on December 31, 2007.

MEMBERS OF THE WORKING GROUP

Catherine Cortez Masto, Attorney General of Nevada, Chair of Working Group
Dawn Gibbons, First Lady of Nevada
Ken Furlong, Sheriff, Carson City
Phil Galeoto, Director, Nevada Department of Public Safety
Doug Gillespie, Sheriff, Las Vegas Metropolitan Police Department
Chris Giunchigliani, Commissioner, Clark County
Mike Haley, Sheriff, Washoe County
Dr. Joseph Heck, Nevada State Senator
Mark Jackson, District Attorney, Douglas County
Sheila Leslie, Nevada State Assemblywoman
Ted Quasula, Chief of Police, Las Vegas Paiute Tribe
Dr. Rob Roberts, Superintendent, Nye County School District
Richard Steinberg, CEO, WestCare Foundation
Marv Teixeira, Mayor, Carson City
Mike Willden, Director, Nevada Department of Health and Human Services
Rhonda Zuraff, Publisher, Elko Daily Free Press

The members of the Working Group would also like to recognize and thank the following individuals who were asked to make presentations to the Working Group about the impacts of methamphetamine use in Nevada:

Michael Flanagan, Assistant Special Agent-in-Charge of the Drug Enforcement Administration for the District of Nevada
Maria D. Canfield, Agency Director, Substance Abuse Prevention and Treatment Agency, Mental Health and Developmental Services, State Department of Health and Human Services
Mick Hall, Clinical Director, Bristlecone Family Resources
Frank Adams, Executive Director, Nevada Chiefs and Sheriffs Association
Sheriff Tony De Meo, Nye County
Sheriff Jim Miller, Storey County
Michael Pomi, Director, Washoe County Juvenile Justice Services
Dr. Joe Haas, Washoe County Juvenile Justice Services
Andrew Clinger, Director, Nevada Department of Administration

PRELIMINARY INFORMATION ON METHAMPHETAMINE USE IN NEVADA

In order to make recommendations regarding prevention, education, treatment, law enforcement, and legislation to assist the Governor in combating the methamphetamine epidemic in Nevada, it is important to have an underlying understanding of how methamphetamine is manufactured and the current trends in the trafficking and distribution of methamphetamine throughout Nevada.

Methamphetamine is easily manufactured, which is one of the major contributing factors to the increase in its use. Large manufacturing operations, commonly referred to as “super labs,” remain prevalent throughout certain regions of Mexico. Outside of these areas, smaller clandestine or mobile labs are more common.

Clandestine labs throughout Nevada usually are operated on an irregular basis rather than on a consistent production schedule. Manufacturers typically produce a batch of finished product, disassemble the lab, and either store or move the lab to another location while they acquire additional chemicals. Relocating the lab affords some protection against detection by law enforcement officers.

Over the past decade, cooperative efforts by law enforcement agencies and chemical suppliers have made it more difficult for methamphetamine manufacturers to obtain the necessary chemicals. In order to circumvent these joint efforts, methamphetamine manufacturers have sought alternative chemicals, routes of synthesis, and sources of supply to fulfill their needs. Methamphetamine manufacturers have learned how to compound and manufacture their own chemicals, employed “runners” (also commonly referred to as “smurfs” or “smurfing”) to purchase necessary chemicals under the threshold amount (the amount at which record-keeping and reporting of chemical transactions are required), or experimented with alternative, non-regulated chemicals. Methamphetamine manufacturers have also obtained chemicals from rogue chemical companies, from sources of supply located in states without strict chemical regulations and/or from other countries.

During the past six years, there has been a decline in clandestine lab seizures in Nevada, as most of the methamphetamine is supplied by Mexican drug trafficking organizations from clandestine labs operated outside of Nevada. The methamphetamine being produced in Mexico and then smuggled into Nevada is of high purity and concentration. The increase in production in Mexico is a result of an increased demand in Nevada and many other states. It is likely that increasingly strict chemical controls and enforcement efforts in Nevada will result in an additional increase in production of methamphetamine in Mexico, depending on access to chemicals in that country and our federal government’s efforts in securing the U.S. borders.

There are two primary methods of manufacturing methamphetamine: (1) the ephedrine/pseudoephedrine reduction method, and (2) the Birch reduction method. Both methods have numerous recipes based on the availability of ingredients in the area. The ephedrine/pseudoephedrine reduction method is the most common method of manufacturing

methamphetamine in Nevada, the Western United States, and Mexico. The Birch reduction method is the most common method of manufacturing methamphetamine in the Midwest.

The ephedrine/pseudoephedrine reduction method is commonly referred to as the “red phosphorous” or “red P” method. In this method, a common recipe combines ephedrine (cold tablets) with red phosphorous (matches/road flares) and iodine (teat dip or flakes/crystal) in the initial stage of the manufacturing process. The mixture is then heated for several hours before continuing with the manufacturing process.

The Birch reduction method is commonly referred to as the “Nazi” method. In this method, a common recipe initially combines ephedrine with anhydrous ammonia (ammonia gas compressed into a liquid form, commonly used as farm fertilizer) and sodium or lithium (from new batteries).

SCOPE OF THE PROBLEM IN NEVADA

According to the federal Substance Abuse and Mental Health Services Administration (SAMSHA), methamphetamine addiction in Nevada increased 58% between 1995 and 2005¹. Further, it is estimated that 180,000 Nevadans needed substance abuse treatment in 2006² and of that total, only 33,983 received treatment from the public and private sector, meaning approximately 146,000 substance abusers did not receive treatment in 2006 alone³. Statewide treatment statistics indicate that 45% of adults, 41% of adolescents, and 82% of pregnant and parenting women in need of treatment, reported methamphetamine as their drug of abuse⁴. Nevada currently ranks number one in the nation for methamphetamine use per capita in three categories:

- Number of people who have used methamphetamine in their lifetime.
- Number of people who have used methamphetamine in the past year.
- Number of people who have used methamphetamine in the past 30 days.

As a result, children in Nevada are being placed at greatest risk to become methamphetamine users. In 2005, the Washoe County School District's "Youth Risk Behavior Survey" found a strong correlation between methamphetamine use and the age of first use of alcohol and/or marijuana. Further, according to the study, the younger a child is when he or she first uses alcohol or marijuana, the greater the chance that child will try methamphetamine.

Nevada's law enforcement resources for fighting methamphetamine are not proportional to our growing state population. State, local, and federal agencies combined have assigned only 100 officers directly to methamphetamine issues.

The Nevada Department of Public Safety has permanently assigned 12 to 15 of its 50 investigators to narcotics enforcement. These investigators worked 309 methamphetamine-related cases between November 2005 and December 2006, representing about 56% of the narcotics cases handled by the Department.

The increase in methamphetamine-related arrests by law enforcement has led to a greater number of inmates in our state prisons. Of the approximately 13,000 inmates in Nevada state correctional facilities, methamphetamine was a factor in the crimes of 40% of the men and 72% of the women⁵. Four out of every five inmates report having a substance abuse problem.

Once these inmates are released from prison, they are closely monitored for methamphetamine or other drug use relapses. The Nevada Division of Parole and Probation kicked off its Anti-Meth Initiative in July 2006. The initiative requires parolees and those on probation to pass a drug test each time they report to the Division. In the first six months of the program, the Division tested nearly 7,000 parolees, with 11% of those tests coming back positive

¹ Source: Substance Abuse and Mental Health Services Administration (SAMHSA).

² Source: SAMSHA.

³ Source: SAMSHA and Nevada Substance Abuse Prevention and Treatment Agency (SAPTA).

⁴ Source: SAPTA

⁵ Source: Nevada Department of Corrections, February 2007.

for methamphetamine use (NOTE: These statistics may be a little inflated as there is the possibility that a single offender may have been tested more than once during that six month period).

There is some good news from the enforcement side. The number of methamphetamine lab incidents in Nevada in 2005 was down 82% from 2001⁶. The drop is attributed by some to federal legislation limiting the sales of precursor drugs and placing some forms of cold medicines behind pharmacy counters. That legislation went into effect in September 2006.

Unfortunately, the drop in the number of methamphetamine lab incidents in Nevada has not resulted in a drop in the number of people reporting methamphetamine use in Nevada. According to federal and local law enforcement agencies, a shift in the supply source has occurred, with most of Nevada's methamphetamine now being smuggled in from super labs located in Mexico⁷.

The federal Drug Enforcement Agency (DEA) is the lead agency working with Mexico to combat methamphetamine distribution. DEA's historic presence in Mexico and constructive relationship with that country has led to important breakthroughs that address the methamphetamine trade.

⁶ Source: U.S. Drug Enforcement Agency

⁷ Source: U.S. Drug Enforcement Agency

SUBSTANCE ABUSE PREVENTION AND EDUCATION

The Executive Budget includes \$20.4 million to address substance abuse prevention and education, including the following new funding:

- *\$2 million for education and awareness programs.*
- *\$5.3 million to replace lost federal Incentive Grant funding.*

During the March 15, 2007, meeting, fact-finding in the area of prevention and education was presented to the Working Group. The following information was provided:

- Evidence-based prevention practices that have proven successful should be continued and expanded. Those approaches include:
 - Information Dissemination
 - Media campaigns, posters, fact sheets, newspaper articles and announcement, health fairs, brochures, etc.
 - Prevention Education
 - Mentoring, school curriculums, parenting programs, community education, etc.
 - Alternative Activities
 - Organizing, planning, enhancing effectiveness of implementation and program selection, interagency collaboration, and networking.
 - Community-based Processes
 - Safe graduation parties, cultural enrichment activities, youth and young adult leadership activities, and community service programs and projects.
 - Environmental Approaches
 - Review of alcohol and other drug policies in schools, modification of alcohol advertising policies, social host ordinances, etc.
 - Problem Identification and Referral
 - Strategies to identify those individuals who are exhibiting early signs of substance use related problems so that they can be referred for appropriate services.
- The Montana Meth Project (www.montanameth.org), a large-scale public education program aimed at significantly reducing first-time use through public service messaging, public policy, and community outreach, presentation highlighted the need to adequately fund and aggressively pursue prevention activities, thus lowering state costs for treatment and incarceration of methamphetamine users.

- R&R Partners, on behalf of the Family Resource Centers (FRCs) in Nevada, suggested that FRCs may have a role to play in the battle against methamphetamine. Early intervention counseling is an important part of addiction management services; however, access to this piece of the methamphetamine solution is severely limited in this state. FRCs can work within their existing infrastructure to address the first signs of methamphetamine use, especially within the family structure. The open-door policy of the FRCs gives families the opportunity to walk in without an appointment and begin addressing the problem the day it is discovered. The value of this immediate, front-line service goes beyond substance abuse intervention. By offering support services for the family as a whole, the FRCs can begin to address the root causes of drug use by offering solutions to other family issues. By evaluating the family as a whole, the FRCs can also provide an assessment of the situation and enlist other services and treatment providers, including Substance Abuse Prevention and Treatment Agency (SAPTA) coalitions, before the problem escalates. In many areas, FRCs already team up with SAPTA coalitions and other groups to tackle methamphetamine use in their communities. A request was made for additional funding to support this existing infrastructure.
- The Nevada Association of Counties (NACO) presented a proposal to create an umbrella organization that would provide leadership and oversight of the dissemination of state substance abuse funding to community organizations. The proposal would require that funds only be awarded if communities propose comprehensive, integrated, and multi-disciplinary action plans. NACO indicated that local elected officials and law enforcement agencies are not necessarily connected with local coalitions and prevention programs that currently receive the bulk of the funding.
- Members of Nevada’s Statewide Coalition Partnership, and prevention and treatment providers, urged the Working Group not to “reinvent the wheel,” suggesting that existing funding processes have worked well. The problem was not the process, but rather not enough funding for prevention programs and treatment. Further, that programs need to be community based, not driven by umbrella organizations.
- The Working Group heard from the Mineral County Sheriff’s Office about the unique needs of rural communities and the need to focus on prevention activities.

The Working Group recommends the following:

- Support the \$5.3 million allocated in the *Executive Budget* to replace the lost federal Incentive Grant. The most efficient, effective means of being proactive is to forward prevention funding to the community coalitions and local prevention programs. They know what is best for their local regions and they have, and will continue to have, the best connections to educators, law enforcement, community leaders, and other stakeholders in their areas. The funding should be awarded

through a Request for Application public process similar to that currently used by DHHS.

- Support DHHS awarding the \$2 million included in the *Executive Budget* for education/awareness programs in a similar manner as the \$5.3 million Incentive Funds are distributed. The application/award process must be done in open meetings. Award committees should include membership from local government, courts and law enforcement, along with other reviewers designated by DHHS.
- Require community coalitions to demonstrate collaboration with local elected officials, law enforcement, courts, child welfare, and juvenile justice programs. This could be accomplished by membership on the coalitions or other means of collaboration.
- Further study of workforce issues: credentialing, recruitment, and retention; and the adequacy of provider personnel projections. This information will be included in the final report issued by the Working Group.

SUBSTANCE ABUSE TREATMENT

The Executive Budget includes \$39 million in substance abuse treatment funding, including the following new funding:

- *\$3.8 million in new treatment funding.*
- *\$3 million for treatment of co-occurring disorders.*

SAPTA offers treatment programs for methamphetamine and other substances of abuse throughout the state. SAPTA currently funds 26 non-profit, private, or governmental substance abuse centers encompassing 61 separate sites, all of which provide treatment for methamphetamine abuse.

According to experts, much longer treatment times are needed for methamphetamine use than for other drugs. In addition, methamphetamine users are generally poly-substance users (multiple drug users). Therefore, it is important not to focus on methamphetamine use only.

The number of people admitted to SAPTA treatment facilities for methamphetamine use has grown nearly 30% from 2002 to 2006. In 2006, the number of people admitted for methamphetamine use accounted for nearly 45% of all SAPTA admissions.

SAPTA provided the Working Group with the following statistics regarding substance abuse treatment:

- Methamphetamine admissions increased from 25.1% in 2002 to 32.5% in 2006.
- 45% of total admissions in 2006 included methamphetamine use in the top three drugs abused.
- 81.5% of pregnant and parenting women admitted in 2006 reported using methamphetamines.
- 80% admitted had no health insurance, 48% had no source of income.
- 659 treatment beds are currently available, down 69 beds from the previous two years.

The Working Group heard from treatment providers regarding the methamphetamine addiction process, the highly addictive nature of the drug, and what treatment works. Emphasis was placed on making treatment readily available and affordable. Evidence-based practices included:

- Cognitive Behavioral Therapy
- Motivational Interviewing
- Contingency Management (Incentives)
- Matrix Model

The Working Group heard about the unmet need for treatment, evidence-based prevention and treatment programs, school-based programs, activities of the local coalitions,

gaps in service, and impacts on the child welfare and juvenile justice systems. Some of the highlights and recommendations of this presentation included:

- 146,000 Nevadans in need of treatment (approximately 130,000 adults and 16,000 adolescents).
 - 45% of these adults needing treatment reported methamphetamine as a drug of abuse, and 41% of the adolescents needing treatment reported methamphetamine as a drug of abuse.
- Approximately 6,500 child welfare cases have unmet treatment needs.
- Over 2,000 juvenile justice involved adolescents have unmet treatment needs.
- Continue evidenced-based prevention programs and treatment.
- Need to address and fund strategies to improve workforce shortages (aging workforce, mostly female counselors, high turnover, and lack of dually credentialed staff).
- Restore lost clinical positions in Rural Clinics budget (28.5 FTEs).
- Significantly expand treatment services and funding with special attention being given to jails, detention facilities, corrections, and child welfare and juvenile justice populations.

The Working Group recommends the following:

- Support the \$3.8 million in new treatment funding included in the *Executive Budget* to address waiting lists. The award process must be done in open meetings. Special attention should be placed on developing treatment programs to address needs in child welfare and juvenile justice programs, as well as in jails, detention centers, and correctional facilities.
- Support the \$3 million included in the *Executive Budget* for co-occurring disorders treatment. Priorities for Fiscal Year 2008 (July 1, 2007 to June 30, 2008) should be focused on Southern Nevada programs: integrated adult outpatient services for the persistently severely mentally ill, integrated adolescent services for clients leaving Desert Willow RTC, and integrated services for Seriously Emotionally Disturbed (SED) adolescents in the juvenile justice system. Fiscal Year 2009 funding would be used to continue FY08 programs in Southern Nevada, and to replicate successful programs in the North and rural counties of Nevada.
- Encourage local governments to further analyze treatment needs in local jails and detention centers, and to identify best practice programs.

LAW ENFORCEMENT

The Executive Budget includes approximately \$3 million in new funding for specific law enforcement of methamphetamine use in Nevada.

The Working Group heard from the U.S. Drug Enforcement Administration (DEA) about local partnerships and domestic and international strategies to curb the manufacturing and distribution of methamphetamine.

Presentations were delivered by the Nevada Chiefs and Sheriffs Association and the Nevada Juvenile Justice Association, which focused on the need in rural Nevada for added resources in law enforcement (task forces) and the need to get more treatment in jails and detention facilities.

The law enforcement fact-finding committee reported on the ongoing planning efforts with the chiefs and sheriffs to deploy new resources in the *Executive Budget*. This will be accomplished by supporting on-going methamphetamine-related task force investigations through the assignment of five new narcotics detectives and one new supervisor in direct support of five existing task force operations currently operating in Nevada. In addition, three new detectives and one new sergeant will be assigned to first-time task force operations and investigative support for at least four additional Nevada counties not currently receiving state-level narcotics investigative support. This funding request will provide for full operational support, including vehicles, personnel safety and emergency equipment, and travel and per diem costs. The assignment of these narcotics personnel will be made with full collaboration with existing local, state, and federal narcotics investigative personnel and task forces, and will work toward the potential integration of the four additional counties into a High Intensity Drug Trafficking Area (HIDTA)-affiliated initiative.

In addition to the need for law enforcement resources to support existing and new task force operations in the 17 counties, there is also a need for resources to support law enforcement in Nevada's Indian communities. There are 27 Indian tribes in Nevada and 15 tribal police departments. Just like the rest of the state, Nevada's tribal communities have not escaped the scourge of methamphetamine use and distribution. Unfortunately, the Indian communities have very little resources to attack this problem. Thus, it is paramount that the tribes and federal, state and local law enforcement agencies develop a formal working relationship to address methamphetamine use and distribution both on and off the reservations. They must discuss criminal jurisdiction, resource and liability issues so they can work cooperatively on methamphetamine enforcement.

The Working Group recommends the following:

- Support the recommendation in the *Executive Budget* to hire additional law enforcement officers, assign them to existing task forces, and develop new task forces in counties which do not currently receive state-level narcotics investigative support.

PROPOSED LEGISLATION OVERVIEW

<u>BILL NUMBER</u>	<u>PRIMARY SPONSOR(S)</u>	<u>BILL SUMMARY</u>
SB 112	Senator Titus	Enacts provisions governing the sale of products containing materials used in the manufacture of methamphetamine and other controlled substances. (Same as AB 148)
AB 116	Assemblyman Carpenter	Revises provisions governing crimes involving methamphetamine and other controlled substances.
AB 148	Committee on Health and Human Services (On behalf of the Attorney General)	Same as SB 112.
AB 149	Assemblywoman Leslie	Makes an appropriation to the Division of Mental Health and Developmental Services in the Department of Health and Human Services for the prevention of the abuse of methamphetamine.
AB 150	Assemblyman Anderson	Makes various changes pertaining to methamphetamine and other controlled substances.
AB 281	Assemblyman Goicoechea	Revises penalties for trafficking in methamphetamine and other controlled substances.

On Thursday, March 15, 2007, the Working Group discussed the proposed legislation pending before the 2007 Legislature. Douglas County District Attorney Mark Jackson discussed the proposed legislation as delineated above.

SB 112 and AB 148

SB 112 and AB 148 are identical bills relating to controlled substances. Both bills establish restrictions on the sale and purchase of products that contain materials that can be used to manufacture methamphetamine.

Testimony before the Working Group established that these bills would be very beneficial in the reduction of methamphetamine labs in Nevada, as the bills reduce the availability of the quantity of the precursor to manufacture methamphetamine, as well as the gram amounts of the precursors (ephedrine, pseudoephedrine and phenylpropolamine). Further,

putting certain common cold medications behind the counter and requiring a prospective purchaser to present identification and enter his or her name and address on a logbook maintained by the retail distributor will further diminish the ability for methamphetamine manufacturers in Nevada to acquire sufficient amounts of the precursor for the manufacturing process.

The Retail Association of Nevada (RAN) testified it would oppose legislation to make precursor products and controlled substances only available by prescription, and would oppose any measures to criminalize retail clerks who inadvertently sell such products to customers who later use those products in the production of methamphetamine.

Based on the fact-finding, testimony, and public comment, the Working Group recommends supporting the passage of SB 112 and AB 148. On March 28, 2007, the Assembly Health and Human Services Committee passed AB 148 out of committee. The bill now goes to the full Assembly for a vote.

AB 116

Testimony before the Working Group addressed the current status of the law regarding trafficking in methamphetamine, a Schedule I controlled substance. NRS 453.3385 provides that a person who knowingly or intentionally sells, manufactures, delivers or brings into this state or who is knowingly or intentionally in actual or constructive possession of methamphetamine, shall be punished, if the quantity involved:

1. Is 4 grams or more, but less than 14 grams, for a category B felony by imprisonment in the state prison for minimum term of not less than 1 year and a maximum term of not more than 10 years and by a fine of not more than \$50,000.
2. Is 14 grams or more, but less than 28 grams, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years and by a fine of not more than \$100,000.
3. Is 28 grams or more, for a category A felony by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, or for a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served, and by a fine of not more than \$500,000.
 - o Section 1 reduces the minimum quantity of flunitrazepam or gamma-hydroxybutrate or their immediate precursors or a schedule I controlled substance, other than marijuana, required for a conviction of trafficking in a controlled substance pursuant to NRS 453.3385. Furthermore, section 1 seeks to amend the minimum term of imprisonment for trafficking from 1 year to 2 years, and to increase the maximum term of imprisonment from 6 years to 10 years.
 - o Section 2 imposes a duty on the court to require bail of at least \$50,000 for persons arrested for trafficking in flunitrazepam or gamma-hydroxybutrate or

their immediate precursors or a schedule I controlled substance, except marijuana, unless the court determines that the amount is excessive under the circumstances. Testimony before the Working Group revealed that NRS 453.3385, as it currently exists, is very sufficient for the enforcement of, and prosecution of, drug trafficking in the State of Nevada. Reducing the quantity of methamphetamine from 4 grams to 3 grams would tend to target drug addicts more than actual drug traffickers. Because probation is not allowed for convicted drug traffickers (unless the drug trafficker provides substantial assistance to law enforcement in conformity with NRS 453.3405), drug traffickers are not eligible for drug court or other drug diversion treatment programs.

Based on the fact-finding, testimony, and public comment, the Working Group recommends opposing passage of AB 116.

AB 149

AB 149 makes an appropriation in the sum of \$2 million from the State General Fund to the Division of Mental Health and Developmental Services in the Department of Health and Human Services for the prevention of the abuse of methamphetamine. The funding would be in addition to the \$2 million included in the *Executive Budget*.

The bill was addressed as part of the prevention/education portion of the March 15, 2007, discussion. Based on the fact-finding, testimony, and public comment, the Working Group recommends support of the passage of AB 149 and the appropriation of \$2 million to the Department of Health and Human Services. The Working Group agreed that the distribution of this funding should be determined by the bill's sponsor.

AB 150

AB 150 is a very comprehensive bill mirroring legislation in the State of Oregon. Testimony before the Working Group raised three primary concerns: (1) the bill would require that common cold medications (such as Sudafed and Actifed) that contain ephedrine or pseudoephedrine could only be dispensed with a prescription; (2) the bill would amend NRS 205.010 by adding “knowingly engaging in the manufacture of methamphetamine, causing a fire or explosion that damages any dwelling, as first degree arson”; and (3) the bill would amend NRS 205.0835 by punishing theft of certain chemicals used to manufacture or compound a controlled substance, other than marijuana, and regardless of the value, as a category B felony for a term of not less than 1 year and maximum term of not more than 10 years, and by a fine of not more than \$10,000.

As previously stated, the Working Group supports SB 112 and AB 148, which establish restrictions on the sale and purchase of products that contain materials that can be used to manufacture methamphetamine and which prevent the public from having direct access to the products. The restrictions on retail distributors is less restrictive and less costly than requiring a prescription for common cold remedies, as proposed in AB 150.

Historically, a person who willfully and maliciously sets fire to a dwelling commits first degree arson. Testimony before the Working Group suggested that a person who knowingly engages in the manufacture of methamphetamine thereby causing a fire or explosion that damages any dwelling should be arson in the second degree.

Testimony before the Working Group revealed that many of the chemicals used in the manufacturing of methamphetamine are commonly used chemicals: toluene (brake cleaner), ether (engine starter), sulfuric acid (drain cleaner), red phosphorus (matches/road flares), iodine (teat dips or flakes/crystal) and lithium metal (batteries). All of these chemicals, in addition to others, are listed in NRS 453.322(4), which prohibits a person from possessing those chemicals with the intent to manufacture methamphetamine. Section 14 of AB 150 would make it a category B felony for a person to steal any chemical identified in NRS 453.322(4).

Currently, the comprehensive theft statute delineated in NRS 205.0832 and the punishments codified in NRS 205.0835 set the punishment for theft based on the value of the stolen property. If the value is less than \$250, the person commits a misdemeanor. If the value is \$250 or more but less than \$2,500, the person commits a category C felony. If the value is \$2,500 or more, the person commits a category B felony. Testimony before the Working Group suggested striking Section 14 of AB 150 or amending Section 14 to add that theft of the chemical with the intent to manufacture a controlled substance is a category B felony.

Testimony before the Working Group discussed, in general, Sections 21-32 of AB 150 regarding the regulation of anhydrous ammonia, a common ingredient in the Birch reduction method (“Nazi” method) of manufacturing methamphetamine. Testimony revealed that one of the most common fertilizers used in the farming and ranching communities throughout Nevada is CN9, and not anhydrous ammonia, which is the most common fertilizer used in the Midwest. As of August of 2006, 41 of 50 states had some legislation dealing with anhydrous ammonia. Only one state, Oregon, had legislation requiring an additive to anhydrous ammonia in order to prevent the anhydrous ammonia from being used in the manufacturing of methamphetamine. While the Birch reduction method is not currently being used to manufacture methamphetamine in Nevada, that method could be used if the chemicals are available. Therefore, legislation to prevent the use of anhydrous ammonia to manufacture methamphetamine is a “forward-thinking” approach to the methamphetamine epidemic in this state.

The Retail Association of Nevada (RAN) testified it would oppose legislation to make precursor products and controlled substances only available by prescription, and would oppose any measures to criminalize retail clerks who inadvertently sell such products to customers who later use those products in the production of methamphetamine.

Based on the fact-finding, testimony, and public comment, the Working Group appointed Chairwoman Attorney General Catherine Cortez Masto, as liaison to Assemblyman Anderson to represent the Working Group’s concerns about AB 150.

After the Working Group’s meeting on March 15, 2007, Attorney General Masto and Douglas County District Attorney Mark Jackson met with Assemblyman Anderson and discussed the Working Group’s fact-finding, analysis and discussions regarding AB 150.

Amendments to the bill suggested by the Working Group were heard by the Assembly Health and Human Services Committee during a work session on AB 150 on March 28, 2007.

AB 281

AB 281 removes the minimum quantity of flunitrazepam or gamma-hydroxybutrate or their precursors or a Schedule I controlled substance, other than marijuana, required for conviction of trafficking in controlled substances and for the imposition of a civil penalty for trafficking in controlled substances.

As discussed as part of the fact-finding and discussion of AB 116 (seeking to reduce the quantity of methamphetamine from 4 grams to 3 grams), the existing drug trafficking statute and penalties are sufficient for the enforcement of, and prosecution of, drug trafficking laws in the State of Nevada.

This bill is a little more troublesome than AB 116 however, in that AB 281 would make it a trafficking offense for any detectible quantity of a schedule I controlled substance, excluding marijuana. Any person who possessed any traceable quantity of methamphetamine could be prosecuted and convicted of a category B felony and must be sentenced to a term of not less than 1 year or more than 6 years in prison. Currently, a person who possesses less than 4 grams of a schedule I controlled substance, excluding marijuana, commits the crime of possession of a controlled substance, a category E felony in violation of NRS 453.336 (an offense which carries mandatory probation). Many methamphetamine addicts who are convicted of possession of a controlled substance enter drug court or another type of drug diversion treatment program. If AB 281 was enacted, there would be no more crime of possession of a schedule I controlled substance. This would, in turn, severely restrict the ability of a methamphetamine addict to get treatment.

Based on the fact-finding, testimony, and public comment, the Working Group recommends opposing passage of AB 281.

The Working Group recommends the following:

- Support SB 112 and AB 148
- Oppose AB116
- Support AB 149
- Work with the Sponsor of AB 150 to address the Working Group's concerns
- Oppose AB 281

FLEXIBLE USE OF FUNDING

The Working Group discussed the need for flexibility in the use of the various funding streams included in the *Executive Budget*. Due to the fact that the 2007 Legislature did not include language in the Appropriations and Authorization Acts granting flexibility between expenditure accounts and the ability to move funds between fiscal years, the Working Group voiced concern that maximum use of the new funding may be jeopardized, or at least limited.

The Working Group agreed it was necessary to bring this situation to the attention of the Governor and the Legislature, and would further explore the viability of flexible funding and make a recommendation in its final report.

CONCLUSION

The Working Group voiced concerns that these recommendations are only the preliminary steps of addressing the methamphetamine problem in Nevada and that a comprehensive strategy must be developed by federal, state and local lawmakers, agencies, and community coalitions to combat the long-term affects of methamphetamine on the state of Nevada. The Working Group also expressed concern that to be successful in this fight, state and local governments must recognize the need for additional funding in the areas of education, prevention, treatment, and enforcement. The Working Group unanimously voted to meet once a month, beginning in May 2007, to continue its efforts to assist Nevada in its battle against methamphetamine abuse. A final report from the Working Group is due on December 31, 2007.