

Members

Rep. Linda Lawson, Chairperson
Rep. Vernon Smith
Rep. Bruce Borders
Rep. Ralph Foley
Sen. Brent Steele
Sen. Carlin Yoder
Sen. James Arnold
Sen. Lindel Hume
Larry Landis
Steve Johnson
Commissioner Edwin Buss
Greg Server
Don Travis
Hon. Stephen R. Heimann



CRIMINAL LAW AND SENTENCING POLICY STUDY COMMITTEE

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Mark Goodpaster, Fiscal Analyst for the
Committee

Authority: P.L. 100-2010

MEETING MINUTES¹

Meeting Date: September 8, 2010
Meeting Time: 9:00 A.M.
Meeting Place: State House, 200 W. Washington
St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Rep. Linda Lawson, Chairperson; Rep. Vernon Smith; Rep. Bruce Borders; Rep. Ralph Foley; Sen. Brent Steele; Sen. Carlin Yoder; Sen. James Arnold; Sen. Lindel Hume; Larry Landis; Steve Johnson; Commissioner Edwin Buss; Greg Server; Don Travis; Hon. Stephen R. Hermann.

Members Absent: None.

Representative Lawson called the meeting to order at 9:05 a.m. She asked the Committee to note that the revised agenda had numerous speakers listed and she asked the Committee to try to limit their questioning in order to respect the timeframes allotted for the speakers.

Sergeant Niki Crawford, commander of the Methamphetamine Suppression Unit of the

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative> Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

Indiana State Police (ISP), testified concerning the high cost of investigating and policing methamphetamine in Indiana.

Dennis Wichern, of the Indianapolis branch of the United States Drug Enforcement Administration (DEA), discussed DEA's efforts to stop the production and distribution of methamphetamine and DEA's support of and participation in the Hazardous Waste Container Program currently being used by ISP.

Jerry Vance, Director of Programs for the Indiana Department of Correction (DOC), discussed DOC efforts to address methamphetamine addicts and offenders who are incarcerated at the DOC. He passed out a handout titled, "Clean Lifestyle Is Freedom Forever." (See Attachment 1)

Robert Bovett, District Attorney of Lincoln County, Oregon, gave a PowerPoint presentation concerning Oregon's approach to the methamphetamine epidemic. He also discussed the outlawing of pseudoephedrine in Mexico, which has led to a weaker form of methamphetamine coming into the United States. (See Attachment 2).

Holly Hopper, director of the National Drug Endangered Children Training and Advocacy Center, testified that her organization's mission is to rescue child victims of drug-related crime by teaching law enforcement officers, social service workers, and medical and mental health care providers special methods of investigation and assessment that can improve the ability of the system to protect children who are discovered living in and endangered by dangerous drug environments. She showed photographs highlighting the physical effects of the methamphetamine use cycle, including sexual abuse, physical abuse, and neglect.

Steve Johnson, Executive Director of the Indiana Prosecuting Attorneys Council, discussed present laws in Indiana for the possession, dealing and manufacturing of meth.

Jennings County Circuit Court Judge Jonathan Webster spoke on the special issues in Jennings County presented by methamphetamine and certain aspects of cases involving children and families that are not publicized because they are not open to the public.

Alan Marshall, Jennings County Prosecuting Attorney, discussed the mentality of the offenders and how the penalties do not matter because the methamphetamine totally consumes the individual. He presented information documenting the cost of certain methamphetamine cases in Jennings County.

Amy Travis, Jackson County Chief Deputy Prosecutor, discussed methamphetamine cases in Jackson County and asked the Committee to make pseudoephedrine a scheduled drug.

Gary Ashenfelter, Indiana Drug Enforcement Association, testified concerning all types of drug abuse around the state and the social consequences of drug abuse. He asked the Committee to make pseudoephedrine a scheduled drug.

Senator Yoder discussed the challenges of coming up with the perfect legislative solution. He stated that he was not yet convinced that pseudoephedrine should be made a scheduled drug, but that he is open to continued dialogue.

Vigo County Sheriff Jon Marvel discussed methamphetamine problems in Vigo County and the costs of investigating, prosecuting and incarcerating methamphetamine offenders.

Senator Tim Skinner and local officials from Vigo county spoke in support of Sheriff Marvel.

Mark Sentor, mayor of Plymouth, Indiana, discussed methamphetamine issues facing Plymouth and efforts to curb methamphetamine use.

Mandy Hagen, Consumer Healthcare Products Association, discussed nationwide sales of pseudoephedrine. She stated that her organization opposes making pseudoephedrine a scheduled drug because the data shows that states with the highest methamphetamine arrests show no significant increase in sales of ephedrine or pseudoephedrine.

Steve Luce, Executive Director of the Indiana Sheriff's Association, discussed methamphetamine issues. Mr. Luce testified that the Indiana Sheriff's Association supports electronic tracking of pseudoephedrine sales, as well as other means to track and apprehend methamphetamine users and manufacturers.

Keith Cain, Sheriff of Daviess County, Kentucky, discussed methamphetamine usage in Kentucky and how time consuming and expensive dealing with methamphetamine is. He favors electronic tracking so that pseudoephedrine can be stopped at the point of purchase and not after the sale has been made.

Stan Stalyards, a sergeant in the Louisville Metro Police Department, discussed his experiences with electronic tracking of pseudoephedrine sales in Kentucky. Sgt. Stalyards opposes electronic tracking, as he believes that the expenses associated with the tracking could be better used for law enforcement methamphetamine task forces and similar programs.

Faith Bell, a captain in the Sheriff's Department of Bay County, Florida, discussed methamphetamine issues and approaches tried in Florida.

Michael Rinebold, Director of Government Relations for the Indiana State Medical Association (ISMA), discussed some concerns that the ISMA had with the proposal to make pseudoephedrine a scheduled drug. However, ISMA is not yet ready to take a definitive position on this issue.

Representative Lawson adjourned the meeting at 11:30 a.m.

Clean Lifestyle Is Freedom Forever

**Methamphetamine Specific
Therapeutic Community**



Identifying Offenders for the CLIFF Units

- Must be Substance abusers with a significant history of methamphetamine abuse
- Must be within 14-36 months from release
- Must be in credit class one and have no significant history of violence within the past year
- Offenders will be considered who are more than 36 months from release if they can provide documentation that the Judge is willing to modify a sentence if SA treatment is completed (Purposeful Incarceration)
- Adult offenders must be clear of any Security Threat Group (STG) offenses for six months prior to admission.



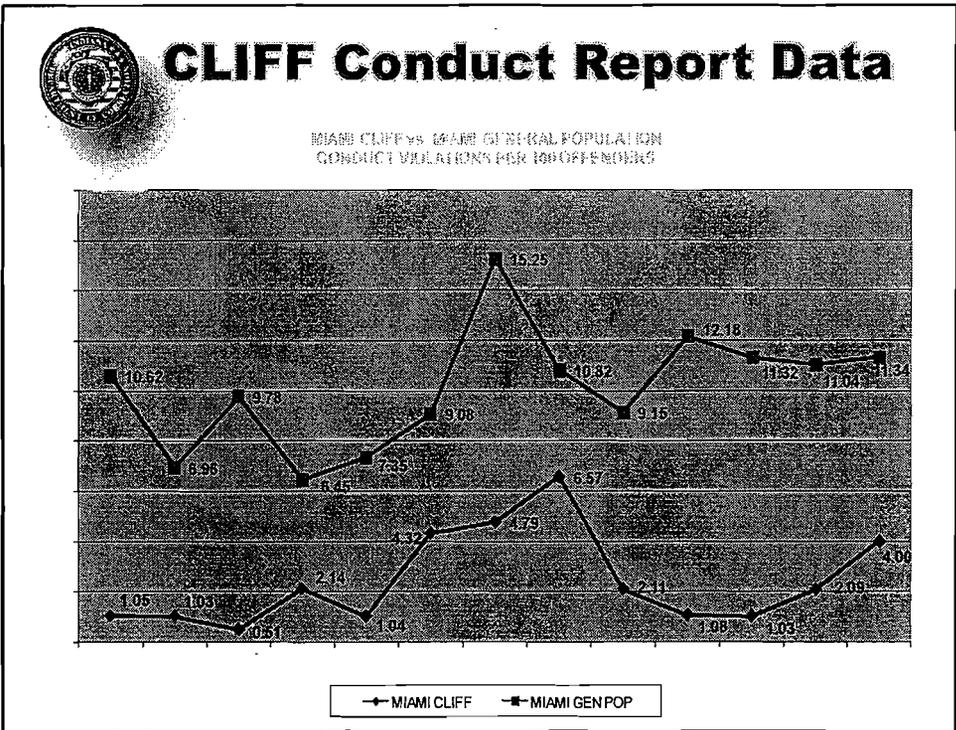
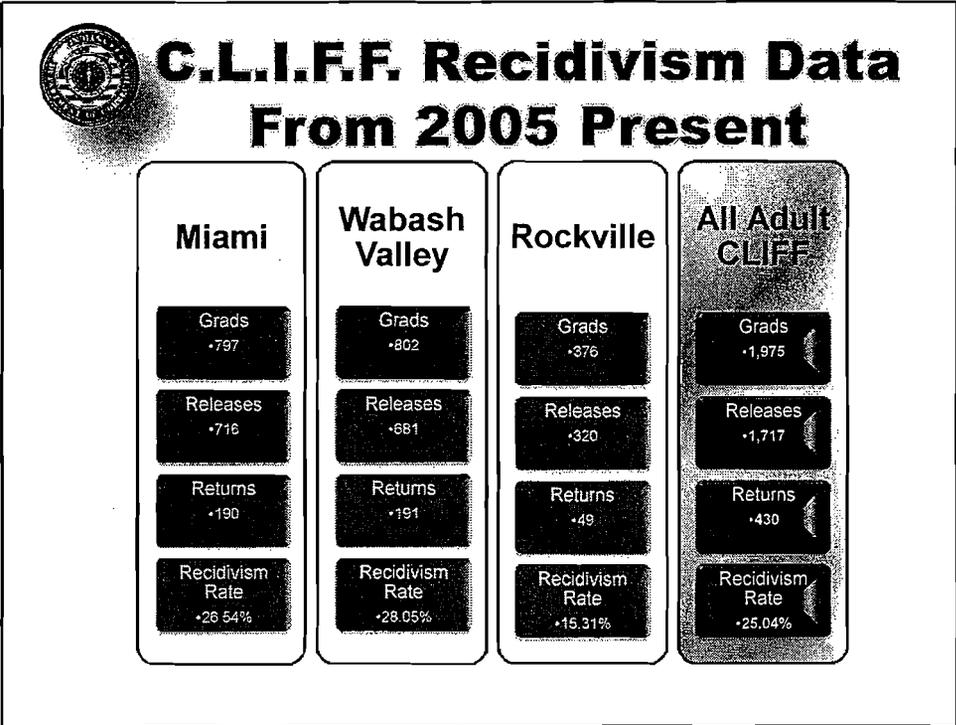
Program Overview CLIFF Units

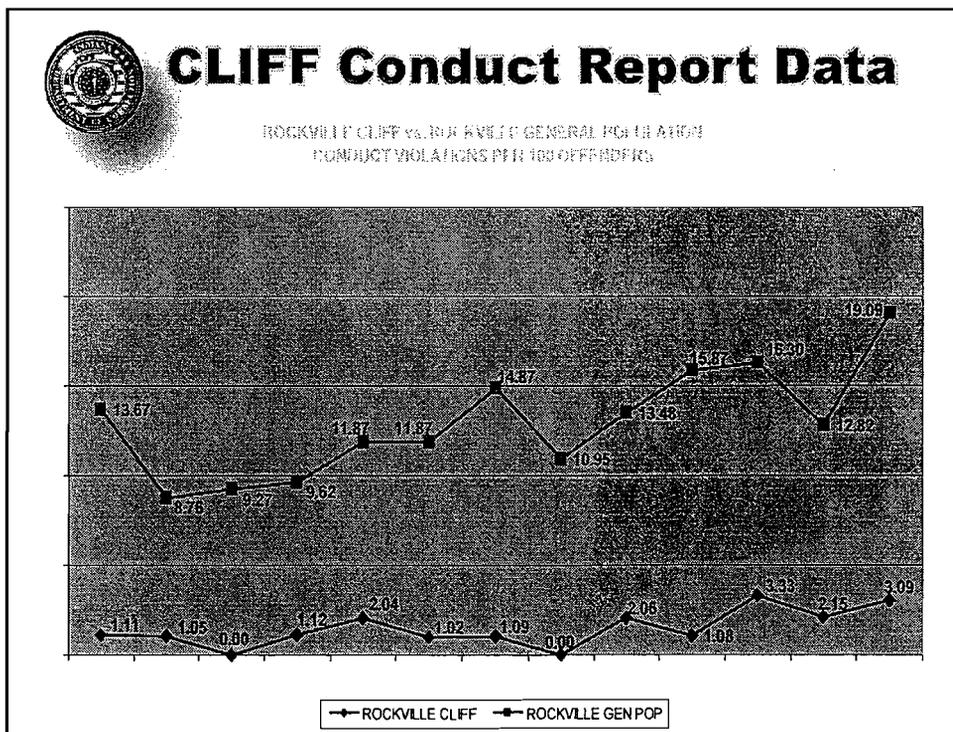
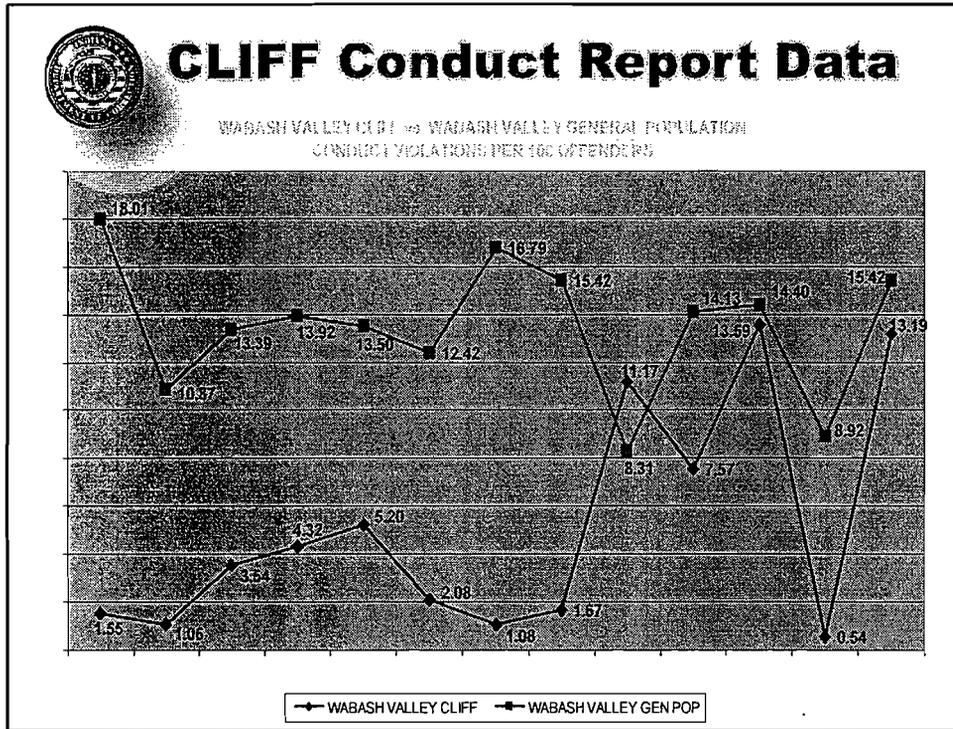
- Therapeutic Community Model
- Programming is for a minimum of 8 months and competency based
- Offenders completing the program can receive up to a 6 month credit time cut
- Cognitive interventions are used
- The Matrix Model Program is being utilized as part of the curriculum (This is a NIDA recognized Evidence Based Program)
- After completion, clients participate in a relapse prevention programming for the remainder of their incarceration
- Stanton Samenow's "Commitment to change; Overcoming errors in thinking" series is utilized.



Meth Units Opening...

- Miami Correctional Facility opened the Methamphetamine TC Unit on April 11, 2005. There are 204 beds.
- Wabash Correctional Facility opened on June 9, 2005. They have 200 beds.
 - This program was relocated in December 2009 to Putnamville Correctional Facility and currently houses 156 offender beds.
- On September 1, 2005, DOC opened the first women's Methamphetamine Therapeutic Community in the country at Rockville Correctional Facility. The unit can house 100 women.
 - This program was expanded to 128 women in 2009
- On December 1, 2005, a CLIFF for juveniles was opened at North Central Juvenile Detention Center. It has capacity for 40 juveniles in the program.





Attachment 2
CLSPSC
9/8/10

**BEFORE THE
INDIANA CRIMINAL LAW AND
SENTENCING POLICY STUDY COMMITTEE**

Meth Epidemic Solutions



The Oregon Experience

Reference Notebook

September 8, 2010

**Before the
Indiana Criminal Law and
Sentencing Policy Study
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September 8, 2010

**Meth Epidemic
Solutions**



HELPING KIDS STOP DRUGS

No Meth Not Here

**The
Oregon Experience**

Presented by
Rob Bovett

Testimony

PowerPoint Presentation

3

Recent Articles Debating the Issue

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Oregon:
Fact Sheet, Charts, and Legislation

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Oregon:
Letters

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Oregon:
Editorial, Op Ed, and Articles

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Oregon:
Meth Task Force Final Report

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Kentucky:
Graph and Letters

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Mississippi:
Articles

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National:
Letters

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National:
NMPI Position Paper

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National:
2010 Drug Control Strategy (p70-71)

14

Reponses:
To Industry Misinformation

Additional Information:
Law Review Article and Bio



Lincoln County District Attorney

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541-265-4145, FAX 541-265-3461, www.co.lincoln.or.us/da/

Rob Bovett
District Attorney

Marcia Buckley
Chief Deputy

September 8, 2010

Written Testimony of Rob Bovett before the **Indiana Criminal Law and Sentencing Policy Study Committee**

Dear Chair Lawson, Representatives, Senators, Committee Members, and Staff,

First, thank you for the opportunity to provide testimony and information regarding the Oregon experience dealing with meth and meth labs, specifically the effective control of pseudoephedrine (PSE), the key ingredient necessary to make the powerful variety of meth that addicts seek.

Second, I am not here in an attempt to tell you or the State of Indiana what you ought to do about meth labs. That is entirely up to you and your fellow policy makers and citizens. Instead, I am here to talk about effective PSE control and the two alternatives you are currently considering, namely: (a) Returning PSE to a prescription drug, as it was prior to 1976; or (b) using an electronic tracking system for retail PSE sales. In summary, here are my comments:

(1) In 1976 we let a genie of the bottle by moving PSE from a prescription drug to retail OTC. Ever since then, federal and state lawmakers have put band-aids on the problem of retail PSE diverted to make meth. Those legislative band-aids have provided temporary relief, at best.

(2) In 2005, the Oregon legislature returned PSE to a prescription drug, effective July 1, 2006.

(3) In 2007, Mexico, the source of most of the meth on our streets, followed Oregon's lead and, in 2009, went one step further by banning PSE entirely. The effect has been weaker meth coming out of Mexico – but more pressure to cook meth in America using diverted retail PSE.

(4) Diversion of retail PSE to make meth typically comes in three forms of what is commonly known as “smurfing:” (a) Exceedence smurfing; (b) group smurfing; and (c) false ID smurfing.

(5) Electronic tracking has the ability to stop or identify exceedence smurfing, where an individual goes from pharmacy to pharmacy using the same ID.

(6) However, electronic tracking does not have the ability to stop, and is completely evaded by: (a) Group smurfing, where no single individual exceeds the retail sales limit; and (b) false ID smurfing, where an individual uses multiple false ID's to smurf more than the legal limit.

(7) Electronic tracking also helps to facilitate group smurfing, and a PSE black market, by ensuring that no individual smurfer exceeds the retail sales limit.

Testimony of Rob Bovett
September 8, 2010
Page 2 of 2 pages

(8) In contrast, returning PSE to a prescription drug eliminates all forms of smurfing. Further, with over four years of actual experience, there has not been a single case of diverted prescription PSE to make meth in Oregon. Fears of PSE doctor shopping have simply not occurred, because PSE is not susceptible to doctor shopping in the same way as pain medicines.

(9) Electronic tracking therefore further delays an effective solution to the diversion of retail PSE, thus ensuring the pharmaceutical industry continues to receive profits from PSE diverted to make meth - all at the expense of lives, families, public safety, the environment and, most tragically, drug endangered children.

(10) Oregon simply put the genie back in the bottle by returning PSE to a prescription drug – a pure **prevention** solution to the problem.

I have enclosed in this reference notebook a number of documents that I hope you will find helpful to your study. Those and many other related documents are also posted at www.oregondec.org.

Thank you again allowing me to speak with you today. Please don't hesitate to contact me if I can be of any assistance.



Sincerely,

Rob Bovett
District Attorney, Lincoln County, Oregon
President, Oregon Alliance for Drug Endangered Children

-
- “Law enforcement does not want to arrest more smurfers or find more methamphetamine labs. Law enforcement wants to eliminate smurfing and prevent methamphetamine labs.”
- *Advisory Board, National Methamphetamine & Pharmaceuticals Initiative (NMPI)*
 - The Oregon alternative “offers an effective approach . . . if broadly adopted, there would be no reason to develop state or national tracking systems, resulting in substantial, ongoing savings . . .”
- *Meth Precursor Tracking Advisory Committee, National Alliance for Model State Drug Laws (NAMSDL)*
 - Fourteen municipalities in meth lab plagued Missouri have now adopted the Oregon system. So has the State of Mississippi, effective July 1, 2010.

Press-Register

OP ED

Insight: Pseudoephedrine often eludes law's reach

Sunday, September 5, 2010
By ROB BOVETT

A recent Press-Register editorial ("Alabama needs to get its act together to fight meth," Aug. 25) referred to legislation passed in both Oregon and Mississippi that returned pseudoephedrine to a prescription drug, as it was prior to 1976.

As the primary author of the Oregon legislation, and one of many people who assisted colleagues in Mississippi in passing similar legislation earlier this year, I couldn't help but notice one particular sentence in the editorial: "A database for pharmacies can be given a chance to work before Alabama considers making pseudoephedrine a prescription drug."

The problem is this: We already know that an electronic tracking database won't work, which is exactly why Mississippi rejected that option, and why Oregon returned pseudoephedrine to a prescription drug, effective July 1, 2006.

Using pseudoephedrine, meth can be cooked up in makeshift home labs. These labs are a significant public safety problem for neighborhoods, law enforcement, the environment and, most tragically, drug-endangered children forced to live in homes where meth is cooked.

Most meth in our nation comes from Mexico, and it is currently pure and cheap. But it is also weak. That is because Mexico has completely banned pseudoephedrine.

This is excellent news, but has also led to a resurgence of meth labs here in the United States.

There are three primary ways that retail pseudoephedrine is diverted to meth labs. All three methods are commonly referred to as "smurfing."

A database has the ability to stop or identify only one of those three forms of smurfing.

As a result, database systems are quickly and completely evaded by smurfers, addicts and meth cooks.

So a number of states are considering legislation based on the Oregon model. With more than four years of actual experience, Oregon has eliminated smurfing and nearly eliminated meth labs.

But there is a tough road ahead for other states. Why? Money.

The pharmaceutical industry is making millions of dollars — "blood money" — each year from diverted retail pseudoephedrine used to make meth. It should come as no surprise that the industry is heavily promoting and paying for database systems.

The industry also spends a lot of money — and trots out a false parade of horrors — in opposition to the simple and effective Oregon solution.

In May, our nation's drug czar, Gil Kerlikowske, released a new drug strategy that provides a more balanced approach, one based on science and evidence. The strategy specifically describes Oregon's success when it comes to eliminating smurfing and dealing with the manufacture of meth.

In no way am I attempting to tell Alabama what it should do about meth labs; that is entirely up to Alabama policymakers and citizens. But it appears that Alabama is considering two alternatives to control pseudoephedrine, and I think it is important for folks to know which of those two alternatives actually works to eliminate smurfing and reduce meth lab incidents.

The Press-Register's editorial was spot-on in many regards. But calling for Alabama to try a system that does not and cannot solve the problem is a waste of time.

Worse, it will delay implementation of a real solution, at the expense of public safety and drug-endangered children.

Rob Bovett is the district attorney for Lincoln County, Ore., and serves on the advisory board of the National Methamphetamine & Pharmaceuticals Initiative. He was the primary author of the Oregon legislation returning pseudoephedrine to a prescription drug. His e-mail address is RBovett@co.lincoln.or.us. For more information, the author recommends readers visit www.oregondec.org.



Before the Indiana Criminal Law and
Sentencing Policy Study Committee

September 8, 2010

Meth Epidemic Solutions



The Oregon Experience

Resource Notebook

BEFORE THE
INDIANA CRIMINAL LAW AND
SENTENCING POLICY STUDY COMMITTEE

Meth Epidemic Solutions



The Oregon Experience

Reference Notebook

September 8, 2010

Website and e-mail

www.oregondec.org

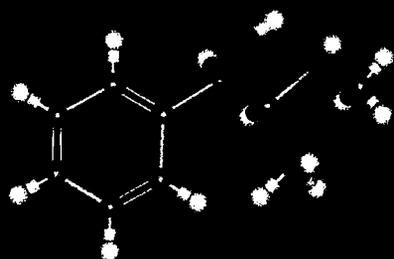


rbovett@co.lincoln.or.us

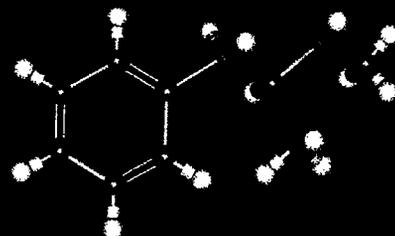
In the world of drug control . . .

- . . . meth is unique.
- **Why?**

Pseudo/ephedrine and Meth



(+)-Pseudoephedrine (C₁₀H₁₅NO)



(+)-Methamphetamine (C₁₀H₁₅N)

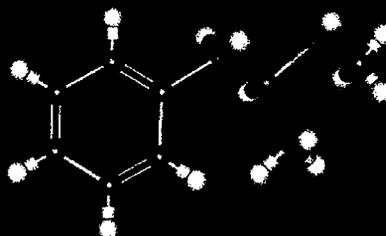
Ball-and-stick | Hydrogen | Methyl | Oxygen

A meth lab:

Start with pseudo/ephedrine

Remove the hydroxyl group

Add back hydrogen



(+)-Methamphetamine (C₁₀H₁₅N)

Ball-and-stick | Hydrogen | Methyl | Oxygen

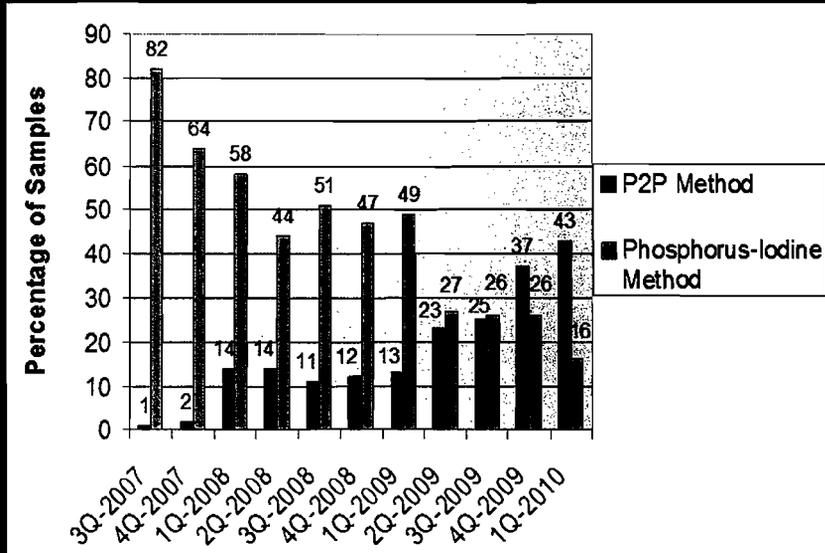
Developments in Mexico

- Mexico has banned PSE entirely
- This is a really good thing
- Why?
 - DTOs forced to use Phenyl Acetic Acid (PAA)
 - The immediate precursor to Phenylacetone
aka Phenyl-2-Propanone (P2P)
 - P2P makes *dl*-meth (half as potent as *d*-meth)
- Means DTO meth potency is down
 - Don't confuse potency with purity

The four P's of meth

- | Diamonds (4 C's) | Meth (4 P's) |
|------------------|--------------|
| • Color | • Price |
| • Cut | • Purity |
| • Carat | • Pounds |
| • Clarity | • Potency |

DTO meth potency down

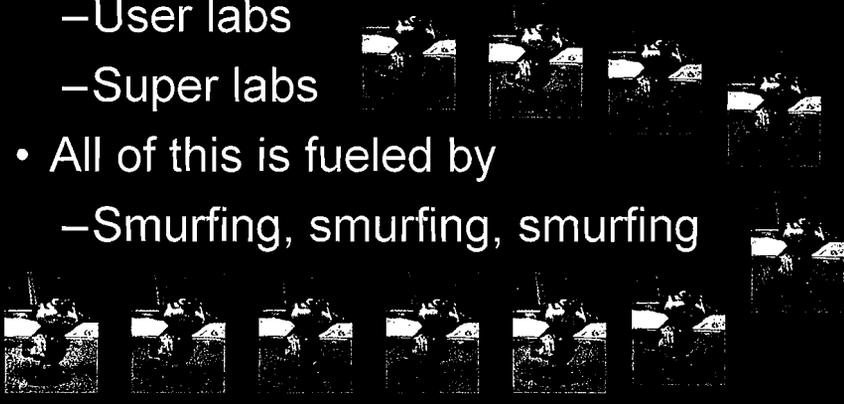


Right now Mexican DTO meth is

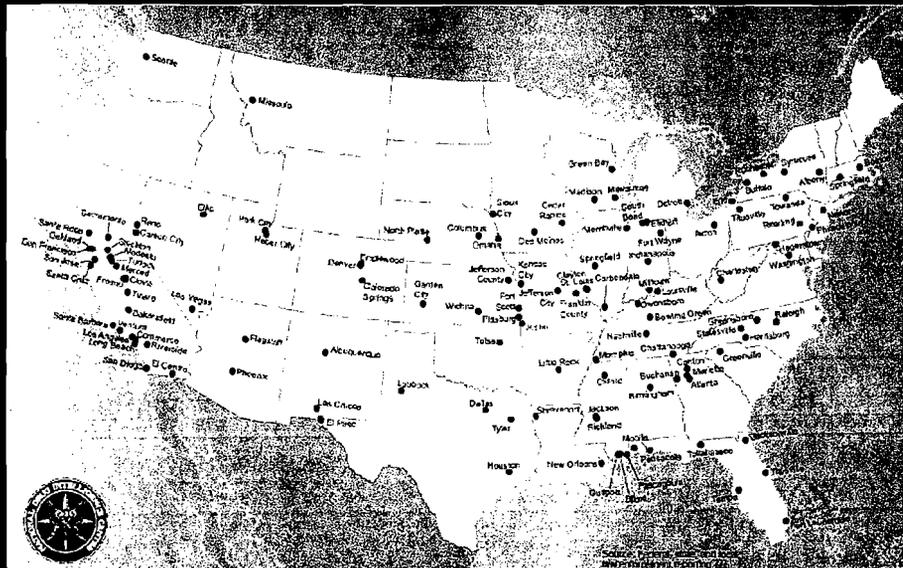
- Pure (Purity)
- Cheap (Price) and
- Plentiful (Pounds)
- . . . but weak (Potency)

This is a good thing

- But this means more pressure to cook meth here in the United States
 - User labs
 - Super labs
- All of this is fueled by
 - Smurfing, smurfing, smurfing

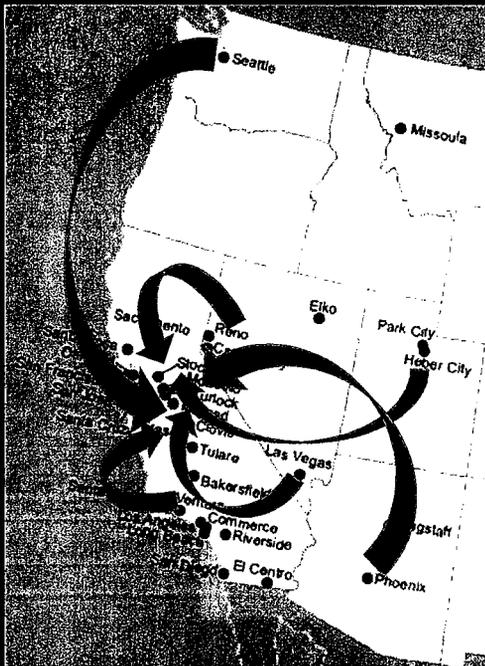
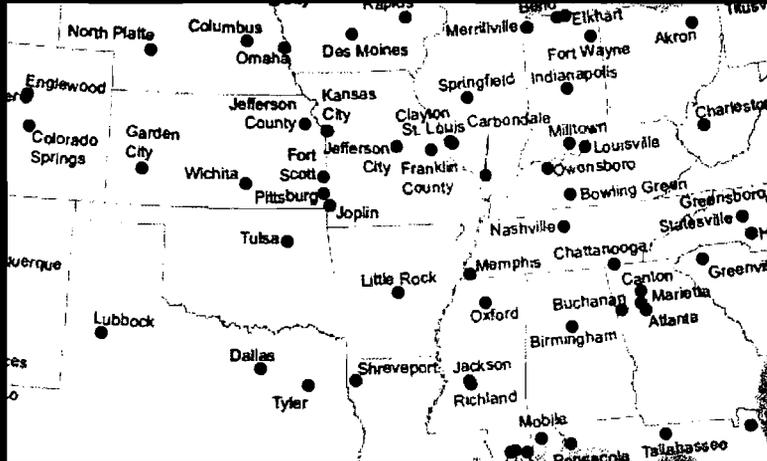


Where the smurfing is happening . . .



Midwest and South

- Thousands of small user labs



The West

- “Super smurfing”
- Where does it go?
- Super labs in Central California

Dealing with smurfing . . .

- **Electronic PSE database monitoring**
 - **Expensive**
 - More arrests and incarceration
 - **Burdensome**
 - On law enforcement, pharmacists, etc
 - **Reactive**
 - Arrest way out of smurfing
 - **Doesn't work**
 - Can't stop two of three kinds of smurfing

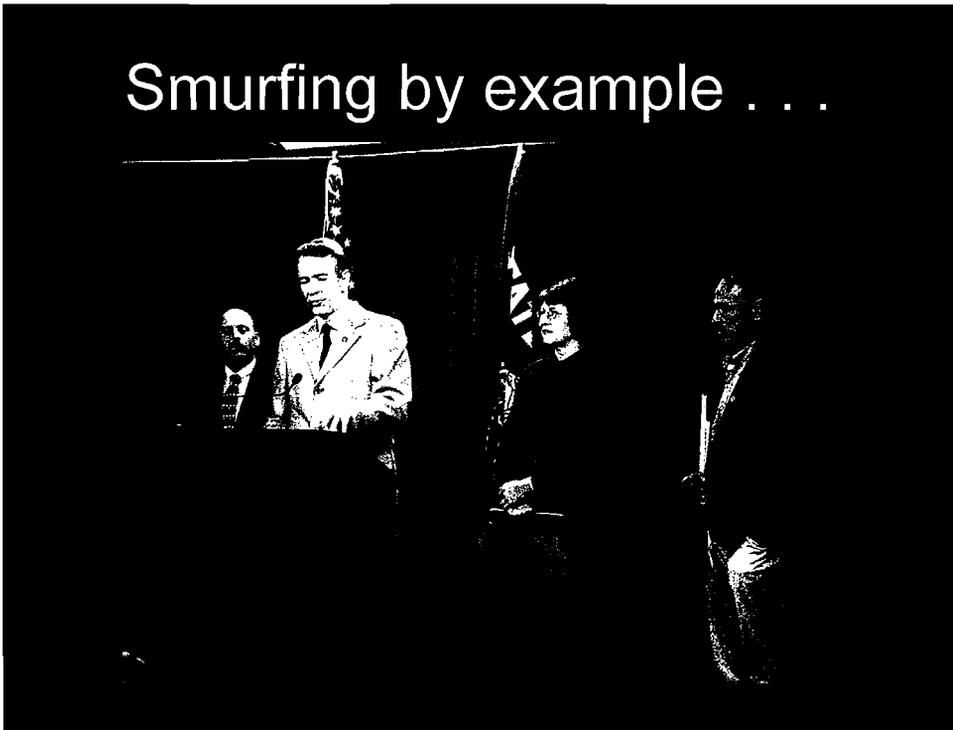
Smurfing solutions



Getting rid of smurfing . . .

- Returning PSE to a prescription drug
- As it was prior to 1976
- Oregon enacted in 2005
- Went into effect July 1, 2006

Smurfing by example . . .



Smurfing by example . . .



FAITH CATHCART/THE OREGONIAN

State Sen. Ginny Burdick of Portland (left), Rep. Wayne Krieger of Gold Beach (center) and Sen. Roger Beyer of Molalla (right) joined with Rep. Greg Macpherson (not in picture) of Lake Oswego to show how easy it is for meth cooks to obtain enough cold medicine to manufacture the illicit drug.

There were only a few “no” votes

- HB 2485
– 9 out of 90
- SB 907
– 1 out of 90

Did the sky fall?

PARADE ITEMS:

- Public outcry
- Inconvenience
- Medicaid costs
- Impact on poor
- Forced out of OR
- Won't work



Oregon Results

- Smurfing eliminated
- Oregon is no longer a part of the problem

The Oregonian
Political pressure drives drug industry to change

New cold pills strike at home meth labs

1.3 million 35% 80% 1,850

with 2005... 2005... 2005... 2005...

By STEVE SUO
THE OREGONIAN
Wednesday, June 22, 2005

Cold medicine manufacturers in an abrupt change, are reformulating their products in a way that likely will cripple home meth labs, which account for 25 percent of total meth production.

Drug companies are racing to replace their pseudoephedrine-based products with the decongestant phenylephrine, which can not be made into methamphetamine. The new cold medicine is expected to curtail the U.S. marketplace within the next two years.

Pharmaceutical industry opposition has weakened in the face of growing political recognition of the meth epidemic and the drug's devastating impact.

Pseudoephedrine **Phenylephrine**

And the sky didn't fall . . .

PARADE ITEMS:

- Public outcry
- Inconvenience
- Medicaid costs
- Impact on poor
- Forced out of OR
- Won't work



The Oregonian

Violent crime in Oregon takes nation's biggest drop; decrease in meth production may be key

by Stuart Tomlinson, The Oregonian
Monday September 14, 2009

At least one factor in the precipitous decline in Oregon's crime rate - both violent and property crimes - appears to be based on the state's aggressive attack on methamphetamine production.

But a police spokesman in Hillsboro - the Oregon town with the steepest drop in both rates - says it would be naive to say it's the only factor.

Either way, the numbers look impressive: FBI statistics released Monday show that violent crime in Oregon dropped 10.6 percent in 2008, the largest decrease of any state in the nation, state justice officials said.

Read more

• In October 2004, The Oregonian published a series called the "Unnecessary Epidemic." It revealed the conditions that fueled the rapid growth of methamphetamine abuse across the West during the 1990s and the

The Sunday Oregonian

EDITORIAL

Sunday, September 20, 2009

Fighting meth drives down crime rate

There are plenty of reasons for Oregon's improvement, but one stands out

You don't have to dig very deep to discover the big secret behind the steep drop in property crimes in Oregon, reported in the FBI's annual release of crime statistics last week.

The FBI reports of local crime records showed that violent crime here decreased by 10.6 percent and property crimes declined by 6.9 percent in 2008 compared with 2007.

There is all kind of speculation about the cause of these declines, and much of it probably has some basis in reality. But these excellent numbers are most likely chiefly the result of Oregon's unique-in-the-nation law that requires prescriptions in order to obtain drugs that contain pseudoephedrine, the main ingredient in illegal methamphetamine.

... and more ...

Methamphetamine - Oregon Fact Sheet

- In 2005, Oregon shifted away from drug policies based on fear and reaction, and moved toward drug policies based on science and precision in the areas of Prevention, Enforcement, and Treatment.
<http://www.oregon.gov/OSD/OSDHome.asp>
 - Included within Prevention is effective control of the key meth precursor, pseudo-ephedrine (PSE). Effective July 1, 2006, Oregon restricted PSE to a prescription drug, as it was prior to 1976.
<http://www.oregon.gov/OSD/OSDHome.asp/OSD/OSDHome.asp>
 - PSE limiting in Oregon has been widespread, and meth labs in Oregon nearly eliminated.
<http://www.oregon.gov/OSD/OSDHome.asp>
 - Mexico followed Oregon's lead, and then banned PSE entirely. The result is that meth from Mexico is pure, cheap, and plentiful, but weak. The potency of meth from Mexico is down substantially.
<http://www.oregon.gov/OSD/OSDHome.asp>
 - Oregon drug arrests
 - From November of 2006 to November of 2008:
 - The number of prison law enforcement officers in Oregon increased.
 - There was a 31% drop in drug arrests in Oregon.
 - Nearly all of that decline was meth arrests.
 - More other drug arrests remained flat or decreased slightly.<http://www.oregon.gov/OSD/OSDHome.asp>
 - Oregon drug treatment admissions have remained relatively constant over the past five years. However, meth treatment admissions are down by over 20%.
<http://www.oregon.gov/OSD/OSDHome.asp>
 - Oregon emergency room non-fatal overdoses are down by a third.
<http://www.oregon.gov/OSD/OSDHome.asp>
 - Arrested Drug Abuse Monitoring (ADAM) - 2008 ADAM II Report
 - From the Executive Summary: "In Sacramento the proportion of arrests involved in acquiring methamphetamine in the prior 30 days increased from 2007, but no further reported acquisition is significantly lower (1.3% than 2007 levels (2.3%).")"
 - From the Conclusion: "Methamphetamine... declines significantly in one of the ADAM II surveys (see Overview) from 2007 (29% positive) to 2008 (1.9% positive). Thirty five percent of Sacramento arrests test positive in 2008, representing no statistically significant change from 2007."
<http://www.adam.gov/ADAM2008/ADAM2008.pdf>
 - Oregon crime rates
 - 74% of property crimes are committed by adults wanting to pay for their addiction.
<http://www.oregon.gov/OSD/OSDHome.asp>
 - In 2008, Oregon reported the largest decrease in crime rates in our nation.
<http://www.oregon.gov/OSD/OSDHome.asp>
 - By 2009, Oregon crime rates will hit a 10-year low.
<http://www.oregon.gov/OSD/OSDHome.asp>
 - NOTE: PSE imports from the United States are up substantially - U.S. estimates under 1988 UN Convention.
 - 2005: just over 12,000 kilograms
 - 2010: just over 60,000 kilograms
http://www.usdoj.gov/ice/dhs/2010/2010_Country_Combined
- For more information, see <http://www.oregon.gov>



NMPI Advisory Board

- **“Law Enforcement does not want to arrest more smurfers or find more methamphetamine labs. Law Enforcement wants to eliminate smurfing and prevent methamphetamine labs.”**

— NMPI position paper (October 2009)

The Sunday Oregonian

OP ED

Sunday, September 20, 2009
By ROB BOVETT

Follow Oregon's lead on meth

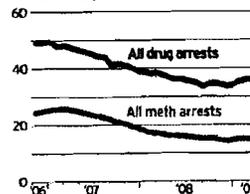
Overall crime drops as the state shifts to drug policies based on science

As reported in Tuesday's Oregonian ("Violent crime drops 10.6% in Oregon"), the latest statistics released by the FBI indicate that local crime rates are going down both for violent crimes and property crimes. That's welcome news, especially during a recession, when many people would expect the opposite.

But there is even better news for Oregonians: Violent crime in Oregon took our nation's biggest drop, and a decrease in meth production may be the key. Of course, meth is not the only reason, but it does play an important role.

Oregon drug arrests fall

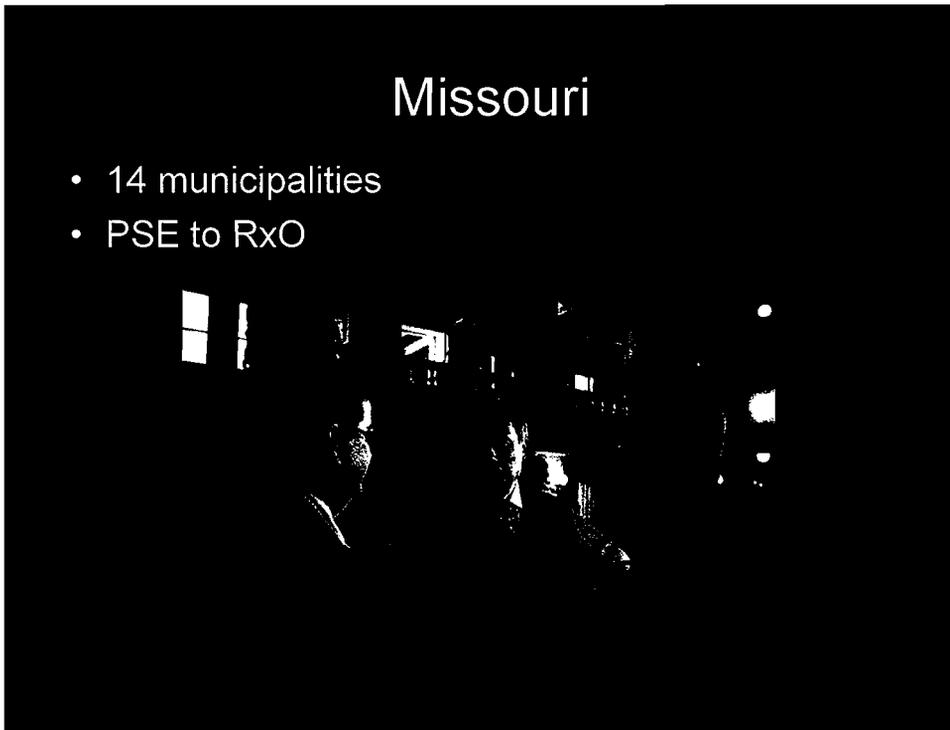
Arrests rates per 100,000



Source: Oregon Criminal Justice Commission
MICHAEL MOORE/THE OREGONIAN

Missouri

- 14 municipalities
- PSE to RxO



Missouri

- Results . . .

MISSOURIAN

Washington, Missouri sees anti-meth law working

Monday, October 26, 2009
BY The ASSOCIATED PRESS

WASHINGTON, Mo. — Three months after the town instituted a law requiring the sale of a key meth precursor by prescription only, police are seeing a surprising ripple effect: Sales of products with pseudoephedrine are down not only in Washington, but in surrounding communities, too.

The Washington Missourian reported that in the 90 days before July 7, the date the law took effect, 4,346 boxes of medicine containing pseudoephedrine were sold at the town's five pharmacies. In the first 90 days after, 310 boxes were sold — a decline of nearly 93 percent — according to statistics from the Franklin County Narcotics Enforcement Unit.

Perhaps more surprisingly, sales at pharmacies in four nearby towns — Eureka, Union, Owensville and Sullivan — dropped 1.4 percent. Police said that is evidence that methamphetamine-makers who sent friends to buy pseudoephedrine to get around state and federal laws limiting how much pseudoephedrine can be legally purchased — a practice known as "smurfing" — are turning to other areas.

Mississippi



- PSE RxO
- Goes into effect
7/1/2010



New Zealand . . .

- The latest to move PSE to Rx only . . .
- and reject industry's offer to pay for tracking system . . .



Tackling P

8 October 2009

The Government's Action Plan
on Methamphetamine

Actions

Restricting Access to Precursor Chemicals

- Reclassifying pseudoephedrine as a Class B2 prescription-only drug.
- Directing Medsafe to consider a total ban on pseudoephedrine.
- Devising further means of restricting criminal access to other precursor chemicals.

In 1976 . . .

- We let a Genie out of the bottle
 - *We moved PSE from Rx to OTC*
- Ever since – band aids
- Growing meth epidemic and meth labs . . .
 - Destroying lives, families, neighborhoods
 - Poisoning our environment and drug endangered children
- Oregon simply put Genie back in the bottle
 - Pure prevention

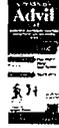
Keep in mind . . .

- 1. NOTE at bottom of Oregon Fact Sheet
 - 2005: Just over 382,000 kilos
 - 2006: CMEA
 - 2010: Just over 650,000 kilos
- 2. Motives
 - PSE product manufacturers
 - CHPA / NADDI / Appriss
- 3. We are only talking about 15 products (plus generics of those 15)

PSEUDOEPHEDRINE COUGH & COLD MEDICINES 2010 PRODUCT AND MANUFACTURERS LIST

The following is a list of over the counter (OTC) medications that contain pseudoephedrine.

MANUFACTURER	MEDICINE	SINGLE ENTITY VS. COMBINATION
Reckitt Benckiser	 Mucinex® D	Combination
Bayer	 Aleve® D	Combination
Johnson & Johnson - McNeil	 Sudafed® D	Single Entity
	 Tylenol® Cold Severe Congestion	Combination
	 Tylenol® Sinus Severe Congestion	Combination
	 Zyrtec® D	Combination

Private Label	Single Entity & Combo		
Schering-Plough	 Claritin® D	Combination	
	 Drixoral® D	Combination	
Pfizer	 Advil® Cold & Sinus Liqui-Gels®	 Alavert® D-12 Extended Release Tablets	All products Combination
	 Advil® Cold & Sinus Caplets		
	 Advil® Allergy Sinus Caplets	 Robitussin® Cough & Cold D	
	 Children's Advil® Cold Suspension	 Primatene® Tablets (Note: contains ephedrine - subject to PSE BTC requirements)	

A real solution

- It has been over 4 years since Oregon returned PSE to a prescription drug
- We no longer have to guess what works
 - And what doesn't work
- After 4 years of actual experience in Oregon:
 - Smurfing has been eliminated
 - Concerns about PSE doctor shopping have not materialized
 - Little to no public outcry



Before the Indiana Criminal Law and Sentencing Policy Study Committee

Meth Epidemic Solutions



The Oregon Experience

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South Bend Tribune

Online system assisting Hoosier meth probes

Thursday, September 02, 2010

PUTNAMVILLE, Ind. (AP) — Some major pharmacies in Indiana are voluntarily submitting information on cold medicine sales to a new online system to help investigators track methamphetamine production, police said.

Walmart, Target and CVS send electronic data to the Indiana Methamphetamine Investigation System whenever they sell medicine containing the meth ingredient pseudoephedrine.

The system, which became operational this month, should make it easier for investigators to follow people buying large amounts of the medications than checking paper logs at individual stores, said 1st Sgt. Niki Crawford, who is commander of the meth suppression section for the Indiana State Police.

"We're going to be able to find the folks that are out there who are doing this that may have been able to hide under the radar screen before," Crawford said.

Crawford said the system's usefulness was demonstrated when investigators needed just an hour to find a group that bought 1,300 grams of pseudoephedrine in the last year.

"It would have taken months with all the information and all the people involved and making those connections, or it may never have happened," she said.

Submitting pseudoephedrine sales information is voluntary. State law only requires retailers to maintain paper logs.

State Rep. Nancy Michael, D-Greencastle, said she would like to see the system made mandatory for all retailers.

"The consequences of not doing enough is going to be long term for society and it does end up costing us more," she said.

Twelve other states, including Michigan, use the online tracking system, which was launched in Tennessee in 2004.

Crawford said CVS reported about 11,000 pseudoephedrine sales from its 289 Indiana stores during its first weekly electronic report, while such sales by Walmart average about 8,000 a week and as much as 6,000 a month from Target.

Members of the public can also submit tips about suspected meth activity to the online site.

State police said its anti-meth unit had responded to 734 meth labs across Indiana through July and that the total number of labs found was expected to again top 1,000 for the year. The agency reported 1,058 labs statewide in 2008 and 1,343 last year.

Denzil Lewis, a Terre Haute police detective with the Vigo County Drug Task Force, said the online tracking system could help, but that it was like using a "Band-Aid for something that needs stitches."

"To really fix the problem, just make pseudoephedrine a prescription (only) medication," he said.

CHAINS & BUSINESS Mark Lowery

Prescription-only or e-tracking systems?

Nationwide debate on smurfing and illegal meth labs heats up



Oregon was in the midst of a methamphetamine war during the early part of this decade, with hazardous meth labs springing up in basements, garages, and kitchens across the state. By 2003, Oregon law enforcement officials were encountering, on average, 39 meth labs each month.

To restrict the illegal sales of products containing pseudoephedrine (PSE), the main ingredient needed to produce illegal methamphetamine, Oregon became the first state to pass a law requiring prescriptions for PSE products such as Sudafed and Claritin-D. The result? In a 3-year period following the rule, Oregon reported only 46 meth-lab incidents.

Real solution or quick fix?

Oregon's prescription-only approach practically eliminated its illicit methamphetamine problem, but some pharmacists, consumer groups, and the drug industry describe it as a quick fix that will increase healthcare costs and inconvenience consumers, and they say it won't work nationally as well as electronic sales-tracking systems would.

"[Pseudoephedrine] is a valuable drug. You shouldn't have to call your doctor, wait two weeks for an appointment, then take off a couple of hours from work to get a prescription," said Fred Mayer, RPh, MPH, a *Drug Topics* editorial board member and president of Pharmacists Planning Service Inc., a consumer, public health, and pharmacy-education foundation in San Rafael, Calif.

Many but not all law enforcement agencies disagree. Some say that prescription-only laws are the only way to dismantle the illegal methamphetamine trade, as was demonstrated in Oregon.

"There is a solution to this human misery in the form of returning pseudoephedrine to prescription status, as it was prior to 1976," said Kent Shaw, as-

sistant chief of the California Bureau of Narcotic Enforcement (CBNE). "The battle pits an effective and proven regulation against the profits of the pharmaceutical industry, thinly veiled as concern about consumers' access to cold medication."



Kent Shaw

The battle moves to Washington

The contentious debate over prescription-only versus electronic sales recently reached Washington, D.C., where members of the U.S. Senate Caucus on International Narcotics Control heard testimony for and against adding a prescription-only element to the federal Combat Methamphetamine Epidemic Act (CMEA) of 2005. The April 13, 2010, hearing co-chaired by Sens. Dianne Feinstein (D-Calif.) and Charles Grassley (R-Iowa) included testimony from pharmacists, consumer groups, and law enforcement officials.

Since 2006, CMEA has required states to regulate over-the-counter sales of pseudoephedrine and ephedrine products. It set daily limits on the purchase of these products and required pharmacies to place the products out of customer reach, to maintain sales logbooks, and to verify customer identification.

Smurfers muddy the waters

That approach worked until meth cook-

ers began using "smurfers," criminals who go to pharmacies and retailers and use fake identification to buy illegal quantities of PSE products. Police say that using the log system mandated by CMEA to catch the smurfers is like searching for a needle in a haystack.

Using the information provided by e-tracking systems is not much better, they say, because the criminals don't use their real names. "In some states, such as California and Arizona, smurfing is well organized and has progressed into its own black-market industry," stated a 2009 position paper from the Advisory Board of the National Methamphetamine and Pharmaceuticals Initiative (NMPI), a group of federal, state, and local law enforcement officials and prosecutors with the mission of reducing methamphetamine crimes. According to the position paper, prescription control is "the only effective means to prevent illicit methamphetamine labs in the United States."

Municipalities fight back

Cities and states are scrambling for answers. Consider:

- Ten states — Alabama, Arkansas, Illinois, Iowa, Kansas, Kentucky, Louisiana, Oklahoma, Missouri, and Washington — adopted the National Precursor Log Exchange (NPLEx), an electronic, web-based PSE sales-tracking system designed to detect and stop excessive purchases and provide information to the police.

With NPLEx, a customer's photo identification is scanned by the pharmacy and the data is entered into a Web-based portal. When a transaction that would exceed the legal limit is entered, a message is instantly sent to the retailer or pharmacy, recommending denial of sale. The information is also transferred instantly to the database, where it is available for review by law enforcement.

- In February, Mississippi became the second state to require a prescription for PSE products. Several other cities and municipalities have also gone the prescription-only route.

- In California, where the CBNE estimates that the problem costs the state \$114 million yearly, state legislators are debating whether to mandate

electronic sales-tracking systems or to go prescription-only.

Armed with the Oregon example, which some call "indisputable evidence," many law enforcements groups in California and elsewhere are pushing for a prescription-only law. "Oregon has seen a dramatic decrease in meth arrests and our nation's steepest decline in crime," Shaw said.

The prescription-only debate

An estimated 15 million Americans use PSE products, and some pharmacists and consumer groups believe the smurfing problem can be solved without adding the additional cost of a physician's visit for legitimate purchasers. They believe prescription-only laws will increase workloads for pharmacists, increase Medicaid costs, adversely affect the poor, and eventually increase the cost of PSE products. (According to the 2009 NMPI position paper, none of these things happened in Oregon).

E-tracking supporters also point to some states that have significantly reduced meth-lab incidents without resorting to prescription-only laws.

"Making pseudoephedrine a prescription product will have the detrimental effect of unreasonably burdening patients who rely on their local community pharmacists to provide timely access to beneficial OTC medications, including the counseling services



Bruce Roberts

that allow patients to make the right decision on which therapy will best suit their symptoms," said Bruce Roberts, RPh, former executive vice president of the National Community Pharmacists Association. "That's why we believe a possible alternative of allowing for electronic tracking of OTC medications containing pseudoephedrine may make

the most sense, but it must not be implemented in a fashion where the cost burden falls on pharmacies over time."

The e-tracking alternative

The Consumer Healthcare Products Association (CHPA), which represents the drug industry, advocates strengthening CMEA by mandating nationwide participation in NPLEx. The drug industry has committed itself to paying to link pharmacies and retailers to the national e-tracking system. "NPLEx offers capabilities for controlling the illegal diversion of pseudoephedrine that go far beyond anything available in the prescription arena," CHPA President Linda Suydam testified during the April U.S. Senate hearing. "A prescription



Linda Suydam

Continued on pg. 44 >>

mandate would simply drive the meth cooks underground and cut off access to information critical to finding illegal meth labs."

Jim Acquisto, a former law enforcement official who is director of government affairs at Appriss, the Louisville, Ky., company that makes the web-based tracking system used by NPLeX, concedes that e-tracking will work only if all pharmacies and retailers are linked. Appriss has provided e-tracking systems to nearly 20,000 pharmacies and retailers in 43 states. Acquisto said e-tracking has advantages over prescription-only laws. "If I buy my limit in New York, then fly to California and try to buy more six hours later, this system will stop me and make that info available to the police," Acquisto said. "Prescription laws don't talk from state to state. And they are vulnerable to prescription-writing fraud."

Police say that using the log system ... to catch the smurfers is like searching for a needle in a haystack.

Getting around the system

Shaw called e-tracking "modern-day snake oil" and said that many of its supporters are naive about the sophistication of the meth producers. There's also the problem of the occasional employee in collusion with the smurfers, since the e-tracking systems have an override that permits employees to complete any sale. Shaw said a CVS manager was caught using fake identification to buy \$2,958 worth of pseudoephedrine pills to sell on the black market. "[E-tracking] does nothing today, and it will do nothing tomorrow," Shaw said, noting that criminals have already found ways to beat that system. **DT**

Mark Lowery, a former managing editor of Drug Topics, lives near Cleveland, Ohio.

Methamphetamine - Oregon Fact Sheet

- In 2005, Oregon shifted away from drug polices based on fear and reaction, and moved toward drug polices based on science and proaction in the areas of Prevention, Enforcement, and Treatment.
<http://oregon.gov/Gov/docs/OMTF-ClosingMemo.pdf>
- Included within Prevention is effective control of the key meth precursor, pseudo/ephedrine (PSE). Effective July 1, 2006, Oregon returned PSE to a prescription drug, as it was prior to 1976.
<http://www.leg.state.or.us/05reg/measpdf/hb2400.dir/hb2485.en.pdf>
- PSE smurfing in Oregon has been eliminated, and meth labs in Oregon nearly eliminated.
<http://www.oregondec.org/OregonMethLabTrends.pdf>
- Mexico followed Oregon's lead, and then banned PSE entirely. The result is that meth from Mexico is pure, cheap, and plentiful, but weak. The potency of meth from Mexico is down substantially.
<http://www.oregondec.org/MPP-UpdatedInfo.pdf>
- Oregon drug arrests:
 - From November of 2006 to November of 2008:
 - The number of sworn law enforcement officers in Oregon increased.
 - There was a 31% drop in drug arrests in Oregon.
 - Nearly all of that decline was meth arrests.
 - Most other drug arrests remained flat or increased slightly.
<http://www.oregon.gov/CJC/SAC.shtml>
- Oregon drug treatment admissions have remained relatively constant over the past five years. However, meth treatment admissions are down by over 20%.
<http://www.oregon.gov/DHS/mentalhealth/data/main.shtml>
- Oregon emergency room meth-related visits are down by a third.
http://www.oregonlive.com/health/index.ssf/2010/06/decongestant_ban_cut_ohsus_met.html
- Arrestee Drug Abuse Monitoring (ADAM) - 2008 ADAM II Report:
 - From the Executive Summary: "In Sacramento the proportion of arrestees involved in acquiring methamphetamine in the prior 30 days remains high (26%), unchanged from 2007, but in Portland reported acquisition is significantly lower (13%) than 2007 levels (23%)."
 - From the Conclusion: "Methamphetamine . . . declines significantly in one of the ADAM II western sites (Portland) from 2007 (20% positive) to 2008 (15% positive). Thirty five percent of Sacramento arrestees test positive in 2008, representing no statistically significant change from 2007."
<http://whitehousedrugpolicy.gov/publications/pdf/adam2008.pdf>
- Oregon crime rates:
 - 78% of property crimes are committed by addicts stealing to pay for their addiction.
http://www.doj.state.or.us/about/pdf/annual_report_2009.pdf
 - In 2008, Oregon experienced the largest decrease in crime rates in our nation.
http://www.oregonlive.com/news/index.ssf/2009/09/oregon_leads_the_nation_in_vio.html
 - By 2009, Oregon crime rates were at a 50-year low.
http://www.leg.state.or.us/press_releases/sdo_052410_III.html
- NOTE: PSE imports into the United States are up substantially - US estimates under 1988 UN Convention:
 - 2005: Just over 382,000 kilograms.
 - 2010: Just over 650,000 kilograms.
http://www.incb.org/pdf/e/precursors/20100305Estimates_Table.pdf

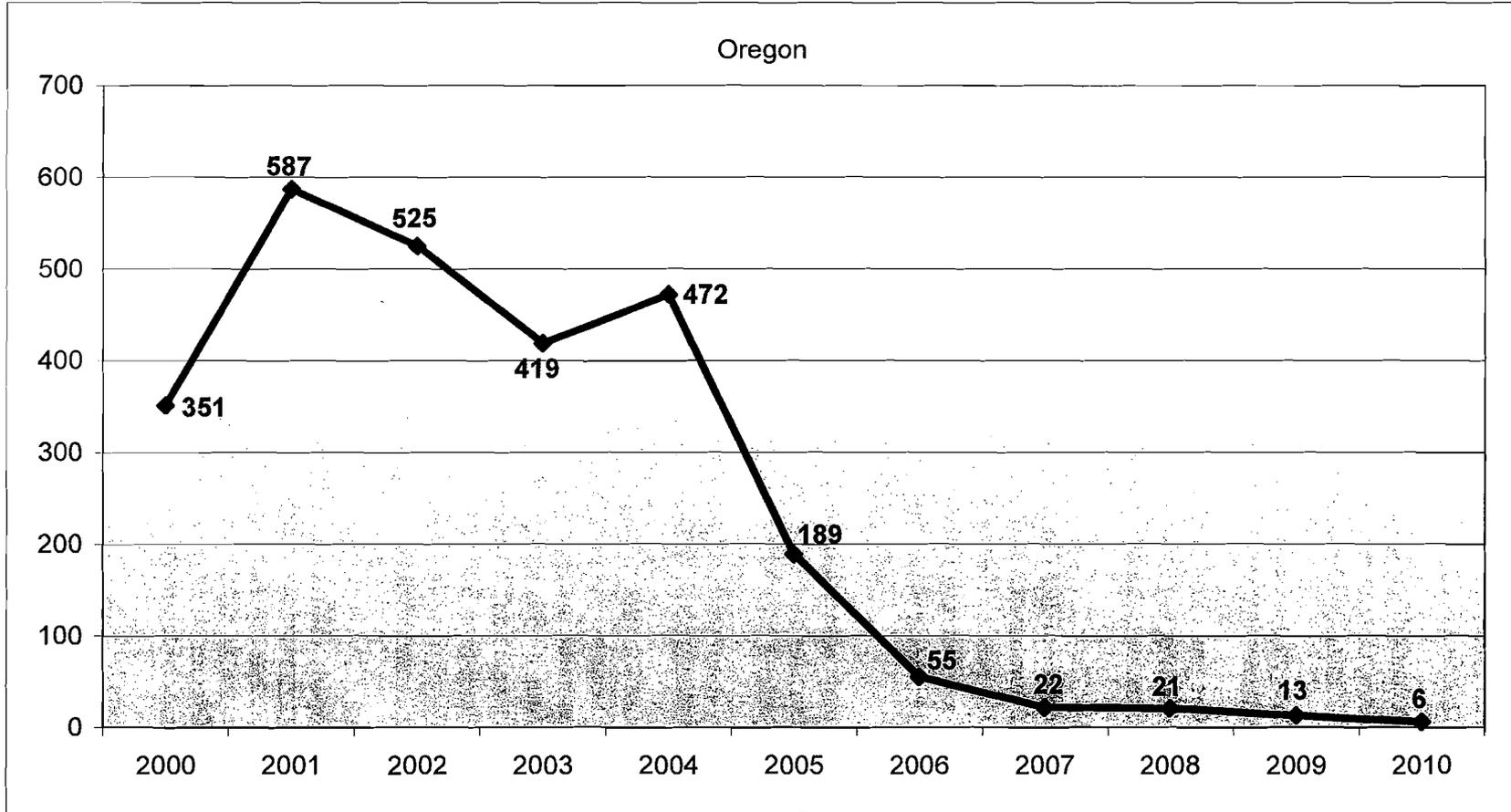
For more information, see <http://www.oregondec.org/>

*Updated
July 26, 2010*

Oregon Meth Lab Incidents*

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Oregon	351	587	525	419	472	189	55	22	21	13	6

* Annual numbers are directly from Oregon; 2010 is an estimate based on doubling the number for the 1st half of 2010 (namely 3).





Pre and Post Pseudoephedrine Control Oregon Meth Lab Incident Statistics



<u>2003</u>		<u>2004</u>		<u>2005</u>		<u>2006</u>		<u>2007</u>		<u>2008</u>		<u>2009</u>		<u>2010</u>	
January	34	January	40	January	24	January	9	January	3	January	3	January	0	January	1
February	38	February	42	February	19	February	6	February	0	February	4	February	3	February	1
March	36	March	49	March	23	March	15	March	1	March	1	March	3	March	1
April	49	April	39	April	31	April	8	April	1	April	2	April	1	April	0
May	51	May	59	<u>May</u>	<u>26</u>	May	4	May	4	May	4	May	3	May	0
June	26	June	42	June	15	<u>June</u>	<u>6</u>	June	0	June	0	June	1	June	0
July	37	July	42	July	7	July	4	July	0	July	2	July	0	July	0
August	42	August	30	August	10	August	6	August	1	August	2	August	1	August	1
September	52	September	28	September	8	September	2	September	3	September	1	September	1	September	1
October	53	<u>October</u>	<u>34</u>	October	13	October	2	October	2	October	0	October	0	October	0
November	33	November	18	November	9	November	1	November	3	November	1	November	0	November	0
<u>December</u>	<u>22</u>	<u>December</u>	<u>25</u>	<u>December</u>	<u>7</u>	<u>December</u>	<u>0</u>	<u>December</u>	<u>0</u>	<u>December</u>	<u>1</u>	<u>December</u>	<u>0</u>	<u>December</u>	<u>0</u>
473		448		192		63		20		21		13		3	

On October 15, 2004, the Oregon Board of Pharmacy adopted a rule requiring pseudoephedrine (PSE) products, other than certain liquids and gel caps, be kept behind the counter (BTC) and requiring picture ID for each sale. The rule went into effect on November 15, 2004. On April 6, 2005, the Board adopted a rule requiring PSE products be kept behind the *pharmacy* counter and requiring picture ID *and logging* for each sale. The rule went into effect on May 14, 2005. On April 5, 2006, the Board adopted a rule requiring a *prescription* for *all* PSE products. The rule went into effect on July 1, 2006. See NOTES on next page for details.

- For the 7 months the first rule was in place (Nov 2004 to May 2005), there were a total of 166 meth lab incidents; an average of 24 per month. For the 7 equivalent months in the year prior to the first rule (Nov 2003 to May 2004), there were a total of 284 meth lab incidents; an average of 41 per month. This reflects a 41% reduction.
- For the 13 months the second rule was in place (June 2005 to June 2006), there were a total of 117 meth lab incidents; an average of 9 per month. For the 13 equivalent months prior to a BTC pseudoephedrine rule (June to Oct 2004 and Nov 2003 to June 2004), there were a total of 502 meth lab incidents; an average of 39 per month. This reflects a 77% reduction.
- For the 48 months the third rule has been in place (July 2006 to June 2010), there were a total of 72 meth lab incidents; an average of 1.5 per month. For the 48 equivalent months prior to a BTC pseudoephedrine rule (Jan to Oct 2004 x 4, plus Nov to Dec 2003 x 4), there were a total of 1,840 meth lab incidents; an average of 38.3 per month. This reflects a 96% reduction. In addition, the majority of the reported meth lab incidents in 2007, 2008, and 2009 were a dump site, partial or remnant (62 of the 72): Oregon had 3 operational meth lab incidents in 2007, 3 in 2008, 3 in 2009, and 1 so far in 2010. All cases where the PSE has been traced have been attributed to smurfing PSE in neighboring states.

Questions?

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NOTES (as of July 12, 2010)

1. **Statistics Subject to Change:** The above statistics may represent unreported clan lab activity throughout the state. Currently, Oregon DOJ/HIDTA does not require police agencies to report clandestine lab activity. Also, there may be some minor adjustments to the most recent data due to late reporting of meth lab incidents.
2. **Small User Meth Labs – What We Have Learned:**
 - a. As proven by a number of states, beginning with Oklahoma and Oregon in 2004, moving pseudoephedrine (PSE) behind the counter (with logging) significantly reduced meth lab incidents. Therefore, in 2006, Congress passed the “Combat Methamphetamine Epidemic Act” (CMEA). Subtitle A of the CMEA moved all PSE products behind the counter (with logging), effective September 30, 2006.
 - b. The remaining meth labs are driven by smurfing (using many persons who go from store to store purchasing PSE products).
 - c. To eliminate smurfing, Oregon moved PSE to prescription only, effective July 1, 2006. There were few complaints and no public outcry. Most PSE products were simply reformulated. The result is the complete elimination of smurfing in Oregon, and the near elimination of meth labs. The few remaining meth labs each year in Oregon are due to smurfing in neighboring states.
3. **Drug Trafficking Organization “Super Labs” (10 lbs or more of methamphetamine per reaction cycle) – What We Have Learned:**
 - a. Controlling the international supply of PSE directly impacts the supply of meth.
 - b. Subtitle B of the CMEA provides for international tracking and control of the PSE feeding the super labs. Coupled with strong action by Mexico and the United Nations, there was substantial progress tracking and stopping shipments of PSE feeding the super labs.
 - c. The initial results were very positive: Declining meth purity and increasing meth price throughout most of the United States.
 - d. Mexico has now banned PSE entirely. The results are declining meth potency.
4. **Smurfing – The Problem, and the Solution:**
 - a. As a result of this success, many states that have not moved PSE to prescription have recently experienced a surge of smurfing and a resurgence of meth labs. There is also a resurgence of super labs in California. All due to smurfing.
 - b. This is very bad news for public safety, the environment, and drug endangered children.
 - c. Electronic monitoring of PSE sales is burdensome, expensive, reactive, and does not solve the problem.
 - d. Instead, be proactive: Oregon completely eliminated smurfing simply by returning PSE to a prescription drug, as it was prior to 1976.
5. **Additional thoughts:**
 - a. “Law enforcement does not want to arrest more smurfers or find more methamphetamine labs. Law enforcement wants to eliminate smurfing and prevent methamphetamine labs.” – Position paper of the National Methamphetamine & Pharmaceuticals Initiative Advisory Board
 - b. The Oregon alternative “offers an effective approach . . . if broadly adopted, there would be no reason to develop state or national tracking systems, resulting in substantial, ongoing savings . . .” – NAMSDL Meth Precursor Tracking Advisory Committee
 - c. In addition to abuse and use to make meth, pseudoephedrine has “undesirable side effects, including central nervous system stimulation, lightheadedness, nervousness, anxiety, paranoia, heart arrhythmia, atrial fibrillations and premature ventricular contractions.” – United States Patent 6,495,529 (Booth, *et al*) (Warner-Lambert, *nka* Pfizer) (December 17, 2002), column 1, lines 57 *et seq*, citing 95 American Hospital Formulary Service 847-48.



HELPING KIDS STOP DRUGS

No Meth Not Here



www.pbs.org/wgbh/pages/frontline/meth/



www.opb.org/meth/



OREGON ALLIANCE
FOR DRUG ENDANGERED CHILDREN
Rescue. Defend. Support.

www.oregondec.org

Oregon legislation returning pseudoephedrine (PSE) to a prescription drug (effective July 1, 2006)

The Oregon legislation returning pseudoephedrine (PSE) to a prescription drug in Oregon was contained within Enrolled 2005 Oregon House Bill 2485:

- <http://www.leg.state.or.us/05reg/measpdf/hb2400.dir/hb2485.en.pdf>

The PSE provisions are in Sections 11 through 13a on pages 5 through 8 of the bill.

The key PSE sections are now codified as Oregon Revised Statutes (ORS) sections 475.973 (directive to move PSE to CIII) and 475.843 (safe harbor affirmative defense):

- <http://www.leg.state.or.us/ors/475.html>

Both sections are recited below.

The key rules adopted by the Oregon Board of Pharmacy are found in Oregon Administrative Rule (OAR) sections 855-080-0023 (moving PSE to CIII, effective July 1, 2006) and 855-080-0065 (exemption from the usual CIII enhanced cage and security requirements):

- http://arcweb.sos.state.or.us/rules/OARS_800/OAR_855/855_080.html

Both sections are recited below.

ORS 475.973. Rulemaking authority regarding products containing ephedrine, pseudoephedrine and phenylpropanolamine; records.

(1)(a) Notwithstanding ORS 475.045, the State Board of Pharmacy may not adopt rules that exempt a product containing ephedrine or pseudoephedrine from classification as a controlled substance. Except as otherwise provided in this paragraph, the State Board of Pharmacy shall adopt rules to classify ephedrine, pseudoephedrine and phenylpropanolamine as Schedule III controlled substances. The Schedule III classification may be modified by the State Board of Pharmacy if the State Board of Pharmacy finds that restrictions on products containing ephedrine, pseudoephedrine or phenylpropanolamine under a Schedule III designation do not significantly reduce the number of methamphetamine laboratories within the state.

(b) Records of transactions involving products containing ephedrine, pseudoephedrine or phenylpropanolamine are subject to inspection by the State Board of Pharmacy and law enforcement agencies. A person required to make or maintain records of transactions involving products containing ephedrine, pseudoephedrine or phenylpropanolamine shall forward the records to the Department of State Police if directed to do so by the department. Failure to forward records as required by this paragraph is a Class A misdemeanor.

(2) This section does not apply to products that the State Board of Pharmacy, upon application of a manufacturer, exempts by rule because the product is formulated to effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors. Upon notification from the Department of State Police that the department has probable cause to believe that a product exempted under this subsection does not effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors, the State Board of Pharmacy may issue an emergency rule revoking the exemption for the product pending a full hearing.

ORS 475.843. Affirmative defense to unlawfully possessing pseudoephedrine.

It is an affirmative defense to a charge of violating ORS 475.840 by unlawfully possessing pseudoephedrine that the person:

- (1) Obtained the pseudoephedrine lawfully;
- (2) Possessed no more than six grams of pseudoephedrine, the salts, isomers or salts of isomers of pseudoephedrine or a combination of any of these substances; and
- (3) Possessed the pseudoephedrine under circumstances that are consistent with typical medicinal or household use, as indicated by factors that include but are not limited to storage location, purchase date, possession of the products in a variety of strengths, brands, types or purposes and expiration date.

OAR 855-080-0023. Schedule III.

Schedule III consists of the drugs and other substances by whatever official, common, usual, chemical, or brand name designated, listed in 21 CFR part 1308.13; and

- (1) Products containing pseudoephedrine or the salts of pseudoephedrine as an active ingredient.
- (2) Products containing ephedrine or the salts of ephedrine as an active ingredient.
- (3) Products containing phenylpropanolamine or the salts of phenylpropanolamine as an active ingredient.

OAR 855-080-0065. Security.

(1) Applicants for registration and registrants must comply with the security requirements of 21 CFR 1301.02, 1301.71 through 1301.76 and 1301.90 through 1301.93, which apply to their registration classification. The requirements of 21 CFR 1301.75 and 1301.76 relating to "practitioners" are applicable to applicants and registrants who are drug dispensers.

(2) The security requirements of subsection one of this rule apply to all "controlled substances," as defined in these rules, except ephedrine, pseudoephedrine and phenylpropanolamine.

(3) Applicants and registrants must guard against theft and diversion of ephedrine, pseudoephedrine and phenylpropanolamine.

For more information, visit www.oregondec.org

Questions? Contact Rob Bovett at rbovett@co.lincoln.or.us



Monday, March 9, 2009

Senator Ron Wyden,

RE: PSEUDOEPHEDRINE & D-METHAMPHETAMINE LABORATORIES

The Oregon State Pharmacy Association strongly encourages Congress to enact federal legislation, classifying pseudoephedrine as a Schedule III narcotic. This reclassification would establish pseudoephedrine as a prescription only medication. Pseudoephedrine is the key ingredient necessary to make d-methamphetamine, commonly known as meth.

In 2006, Congress passed legislation restricting pseudoephedrine, requiring it be kept behind-the-counter and logging sales. That legislation, known as the Combat Methamphetamine Epidemic Act (CMEA), dramatically reduced the incidence of meth labs throughout the nation. However, as we predicted, meth addicts quickly found a way around the CMEA through "smurfing." The tragic result is the recent resurgence of extremely dangerous meth labs, posing unacceptable risks to our families, neighborhoods, and the environment.

In contrast, Oregon passed legislation, which took effect in 2006, making pseudoephedrine a Schedule III narcotic. Since then, there have been few complaints, and little to no public outcry. Smurfing and meth labs have almost been eliminated in Oregon. We no longer have to guess what works and what doesn't.

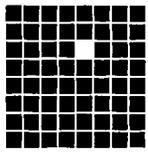
In the spring of 2008, OSPA conducted a survey of our membership, confirming that Oregon pharmacists strongly prefer pseudoephedrine as a Schedule III narcotic. It eliminates the burdensome behind-the-counter classification and logging requirements that we previously had. Most of the nation is still following the CMEA, with disappointing results.

Congressional action is needed now, making pseudoephedrine a Schedule III narcotic, which will drastically reduce the availability of pseudoephedrine, the key ingredient necessary to manufacture d-methamphetamine.

Respectfully,

Kenneth R. Wells

Kenneth R. Wells
President
Oregon State Pharmacy Association



**Oregon
A.C.E.P.**

11740 SW 68TH Parkway
Suite 100
Portland, Oregon 97223-9038
Phone: (503) 619-8000
Fax: (503) 619-0609
Email: pat@theOMA.org
Website: www.ocep.org

Oregon Chapter, American College of Emergency Physicians (O.C.E.P)

June 5, 2009

Kent A. Shaw
Assistant Chief, California Office of the Attorney General Department of Justice, Bureau of
Narcotic Enforcement

Mr. Shaw:

The Oregon Legislature passed a law in 2006 requiring that the use of pseudoephedrine be restricted to those who have a valid prescription from a medical provider. From the perspective of an Emergency Physician, an informal poll of our Board of Directors, representing Emergency Physicians across the state, found that the passage of this legislation has had no real impact on the number of visits we have seen in Emergency Departments across the state related to requests for prescriptions for this medication. In fact, almost all of us could not recall a patient encounter where this was an issue.

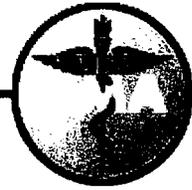
Given the clear relationship between the use of pseudoephedrine and the creation of methamphetamine, and plenty of viable alternatives on the market to use for decongestants, we think that this law in the state of Oregon has had a clear benefit without any compromise to the health of our citizens. We hope that California is successful in the passage of this legislation.

Sincerely,

Dan Handel

*Daniel Handel, MD, MPH - President
Evangeline Sokol, MD, FACEP - Treasurer*

*Kiran Beyer, MD - Conference Co Chair
Robert Vissers, MD., FACEP - Conference Co Chair
Pat Webster - Executive Secretary/Conference Coordinator*



February 2, 2010

To Whom It May Concern:

In 2005, Oregon's legislature passed a law requiring a prescription for pseudoephedrine in an effort to curtail the manufacture of methamphetamine. The measure was part of a bipartisan package of laws targeted at addressing Oregon's large and growing methamphetamine crisis. The OMA supported that legislation out of a sense of concern for the drastic health effects this drug has on its users, and out of a belief that it would help our members handle a crisis that was overwhelming many of their communities.

The OMA created a Methamphetamine Task Force in response to this crisis, which strove to help educate physicians and other health care providers about how to understand the drug action of methamphetamine, to recognize the signs of methamphetamine use in their patients, and how to teach others to do the same.

Our informal research of our physician members suggests that the beneficial impact of this law outweighs the inconvenience related to additional requests for prescriptions. More recent research questioning the efficacy of PSE, and reports showing a sharp drop in drug-related crimes in Oregon since the law's implementation underscore its efficacy. Indeed, Oregon's Senator Wyden has recently announced his intention to propose federal legislation that would apply this policy to the entire nation.

Given the clear relationship between the use of pseudoephedrine and the creation of methamphetamine, and plenty of viable alternatives on the market to use for decongestants, we think that this law has had a clear benefit, and has not compromised the health of our citizens. We feel that our state's experience should serve as an example to other states seeking to address their own struggles with methamphetamine production.

Sincerely,

Peter Bernardo MD.

Peter Bernardo
OMA President

11740 SW 68th Parkway, Suite 100
Portland, Oregon 97223-9038
phone 503.619.8000
fax 503.619.0609
www.theOMA.org



February 16, 2009

Senator Ron Wyden
U.S. Senate, State of Oregon
Washington, DC

RE: Meth Labs and Pseudoephedrine

Senator Wyden,

The Oregon Association of Chiefs of Police, Oregon State Sheriffs' Association and the Oregon District Attorneys Association strongly encourage Congress to pass legislation making pseudoephedrine a Schedule III controlled substance (i.e., prescription only). Pseudoephedrine is the key ingredient necessary to make d-methamphetamine, commonly known as meth. In addition to devastating nature of this addicting drug, the meth production process and meth labs are extremely dangerous and pose unacceptable risks to neighborhoods, the environment, and drug endangered children.

In 2006, Congress passed legislation restricting pseudoephedrine by requiring the logging of sales and placement of the drug behind-the-counter. The passage and implementation of this legislation, known as the Combat Methamphetamine Epidemic Act (CMEA), dramatically reduced the incidence of meth labs throughout the nation. However, as we predicted, meth addicts quickly found a way around the CMEA through 'smurfing.' A recent resurgence of meth labs is the tragic result.

In contrast, Oregon passed legislation making pseudoephedrine a Schedule III controlled substance. Passage of this legislation resulted in very few complaints and little to no public outcry. The legislation, which went into effect in 2006, has eliminated smurfing and virtually eliminated meth labs from Oregon.

We no longer have to guess what works and what doesn't. Congress should pass legislation making pseudoephedrine a Schedule III controlled substance.

Best Regards,


Raul Ramirez, Executive Director
Oregon State Sheriffs' Association


Dan Norris, President
Oregon District Attorneys Association


Kevin Campbell, Executive Director
Oregon Association Chiefs of Police



The Sunday Oregonian

EDITORIAL

Sunday, September 20, 2009

Fighting meth drives down crime rate

There are plenty of reasons for Oregon's improvement, but one stands out

You don't have to dig very deep to discover the big secret behind the steep drop in property crimes in Oregon, reported in the FBI's annual release of crime statistics last week.

The FBI reports of local crime records showed that violent crime here decreased by 10.6 percent and property crimes declined by 6.9 percent in 2008 compared with 2007.

There is all kind of speculation about the cause of these declines, and much of it probably has some basis in reality. But these excellent numbers are most likely chiefly the result of Oregon's unique-in-the-nation law that requires prescriptions in order to obtain drugs that contain pseudoephedrine, the main ingredient in illegal methamphetamine.

Some states, notably Oklahoma, got the basic idea of separating these drugs from the consumer by placing them behind the sales counter. It was a start, but not enough, and Oklahoma is one of the states where meth is making a comeback. So far, nothing works better than Oregon's prescription-only approach. Pharmaceutical lobbyists have fought hard against the spread of such measures, which should be no surprise, and have even proposed the ridiculously complex idea of setting up databases that try to separate legit buyers from criminals.

Oregon's success in this area seems clearly to have carried over into the property crime statistics. The link between meth and theft, burglary and what used to be seen as vandalism has been clear for some time. In recent years that sort of thing rose to such a frenzy that not even highway guardrails were safe from the meth zombies, who would dismantle them then resell them to crooked businesses to get money to buy meth.

One of Oregon's leading meth crusaders, Lincoln County District Attorney Rob Bovett, chairman of the Oregon meth task force, says that other data also supports the belief that solving meth reaps great rewards in other areas of law enforcement as well. One of the hurdles the country must overcome, though, is the reluctance of states to really grapple with the biggest problem – the wide availability of easy-to-get drugstore remedies that contain pseudoephedrine. Surprisingly, considering its reputation, the only jurisdiction to do more than Oregon, Bovett points out, is Mexico.

"We asked (Mexico) for import quotas, and they phased them in," he said, "and then they became incredible partners. Mexico didn't just make (pseudoephedrine-based remedies) prescription-only, they banned them entirely."

Among the caveats is that meth use remains fairly high in Oregon and that there is a long way to go before it drops to levels that anyone could say is acceptable. This prospect remains distant, too, as long as states such as California fail to enact anti-meth laws that actually work, thus abetting the existence of meth superlabs that use nonprescription decongestants as their primary fuel.

There are, of course, many other trends, policies and enforcement actions that led to Oregon's encouraging crime statistics. These include things such as Measure 11 and related efforts to increase prison time for certain serious crimes, growing emphasis on early prevention, drug and alcohol rehab, and more discerning juvenile justice systems such as the one in Multnomah County that has become a national model. Often these efforts represent competing values and approaches to crime and justice but, even so, competing visions are probably better than none at all.

The Sunday Oregonian

OP ED

Sunday, September 20, 2009
By ROB BOVETT

Follow Oregon's lead on meth

Overall crime drops as the state shifts to drug policies based on science

As reported in Tuesday's Oregonian ("Violent crime drops 10.6% in Oregon"), the latest statistics released by the FBI indicate that local crime rates are going down both for violent crimes and property crimes. That's welcome news, especially during a recession, when many people would expect the opposite.

But there is even better news for Oregonians: Violent crime in Oregon took our nation's biggest drop, and a decrease in meth production may be the key. Of course, meth is not the only reason, but it does play an important role.

This good news is confirmed in other data recently released by the federal and state governments, including drug arrests and meth lab incidents. But not all drug arrests are down in Oregon. Just meth.

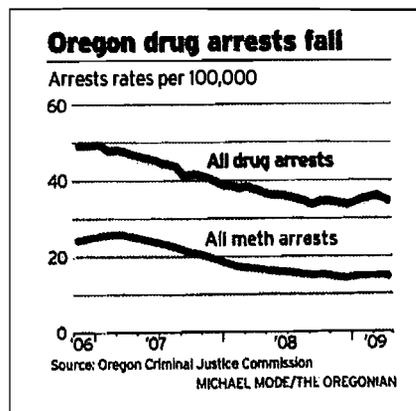
This is not to say we have defeated meth. Not even close. Even with our positive trends, meth remains by far the No. 1 illicit drug abuse problem in Oregon. But what makes Oregon different from the rest of the nation is that we are on the decline. Other states, including and especially California, are going in exactly the opposite direction. Meth labs are back with a vengeance, everywhere except Oregon.

So what makes us different? What did we finally get right? That is what many folks in Washington, D.C., and other states are asking, and why my phone and e-mail have been buzzing nonstop this past week.

What Oregon has done is pioneer a path away from traditional "war on drugs" policies based on fear and shifted instead to drug policies based on science.

Three things distinguish Oregon.

First, we utilized an extensive public information and community policing campaign. Not based on fear. Just the facts. As a result, Oregonians are more aware of the ugly truth about meth.





Brent Wojahn/The Oregonian, 2004

Cleanup of meth labs has become less common since Oregon became the first -- and still the only -- state to effectively control sales of pseudoephedrine, which is found in some cold and allergy medicines and is the key ingredient in the manufacture of meth.

More on meth

- A recently released federal report that examined trends in 10 U.S. counties found evidence of declining meth use among adult male offenders:

From the Executive Summary: "In Sacramento the proportion of arrestees involved in acquiring methamphetamine in the prior 30 days remains high (26%), unchanged from 2007, but in Portland reported acquisition is significantly lower (13%) than 2007 levels (23%)."

From the Conclusion: "Methamphetamine . . . declines significantly in one of the ADAM II western sites (Portland) from 2007 (20% positive) to 2008 (15% positive). Thirty five percent of Sacramento arrestees test positive in 2008, representing no statistically significant change from 2007."

The full report of the Arrestee Drug Abuse Monitoring (ADAM) Program can be found at: whitehousedrugpolicy.gov/publications/pdf/adam2008.pdf

- Oregon drug arrest trends show the cause of an overall drop from November 2006 to March 2009 is entirely driven by meth. See a series of charts at: oregondec.org/CASB484/OR-DrugArrests.pdf

Sources: Office of National Drug Control Policy, Oregon Alliance for Drug Endangered Children

Second, we shifted resources to treatment strategies that actually work. The truth is that treatment works for meth addiction just as well as any other form of addiction, if we use the correct treatment and recovery support. Oregon's drug courts are a perfect example.

Finally, we were the first -- and remain -- the only state to effectively control pseudoephedrine, found in some cold and allergy medicines and the key ingredient necessary to make meth. Unlike most other drugs of addiction, meth supply and meth labs can be controlled, as extensively documented by The Oregonian in its "Unnecessary Epidemic" series published in 2004. With the leadership of a bipartisan caucus in Salem, we returned pseudoephedrine to its status as a prescription drug, as it was before 1976 and before the grand scale meth epidemic that ravaged Oregon from the late 1980s through 2007.

We also worked directly with our counterparts in Mexico, who followed Oregon's lead and then completely banned pseudoephedrine. Five other nations have recently done the same. This has put intense pressure on other states, where meth labs and meth arrests are rising.

Many other states are now pursuing legislation based on the Oregon model. U.S. Sen. Ron Wyden, D-Ore., also has drafted legislation to make the successful Oregon model a national policy. But there is a tough road ahead.

Why? Money.

The pharmaceutical industry is making millions of dollars each year from diverted pseudoephedrine used to make meth. Blood money.

The payoff in our shifting to science-based drug policies can be measured in lives and families saved. After meeting this spring with our nation's new "drug czar," former Seattle police chief Gil Kerlikowske, I am optimistic that our nation may be following Oregon's lead.

Yes, we have made much progress. But we have a lot of work ahead. The five-year efforts of the Oregon Meth Task Force have just come to a close. We now have a new comprehensive statewide Alcohol and Drug Policy Commission, something we have needed for a long time. The new commission has a big challenge, but at least its starting point is a downward trend line, reduced crime, and effective policies based on science, rather than fear and money.

•

Rob Bovett is the Lincoln County district attorney, chairman of the Oregon Meth Task Force and principal author of Oregon's meth lab control laws.

The Oregonian

Violent crime in Oregon takes nation's biggest drop; decrease in meth production may be key

by STUART TOMLINSON, The Oregonian
Monday, September 14, 2009

At least one factor in the precipitous decline in Oregon's crime rate - both violent and property crimes - appears to be based on the state's aggressive attack on methamphetamine production.

But a police spokesman in Hillsboro - the Oregon town with the steepest drop in both rates - says it would be naive to say it's the only factor.

Either way, the numbers look impressive: FBI statistics released Monday show that violent crime in Oregon dropped 10.6 percent in 2008, the largest decrease of any state in the nation, state justice officials said.

Mike Stafford, a public policy spokesman for the Oregon Criminal Justice Commission, said the last time the violent crime rate was this low in Oregon was nearly 40 years ago in 1970.

In addition, the 6.9 percent drop in property crime was the eighth-largest decrease in the nation. Stafford said the last time the property crime rate was this low was 1966. Crime statistics are calculated on a per-capita basis.

"This moves Oregon down to the 40th highest violent crime rate and 23rd highest property crime rate," Stafford said. "Both of these are record lows for Oregon."

Officials link the dramatic decrease to the decline in methamphetamine use, arrests for meth, and the state's aggressive restrictions on the purchase of the precursor drug pseudoephedrine.

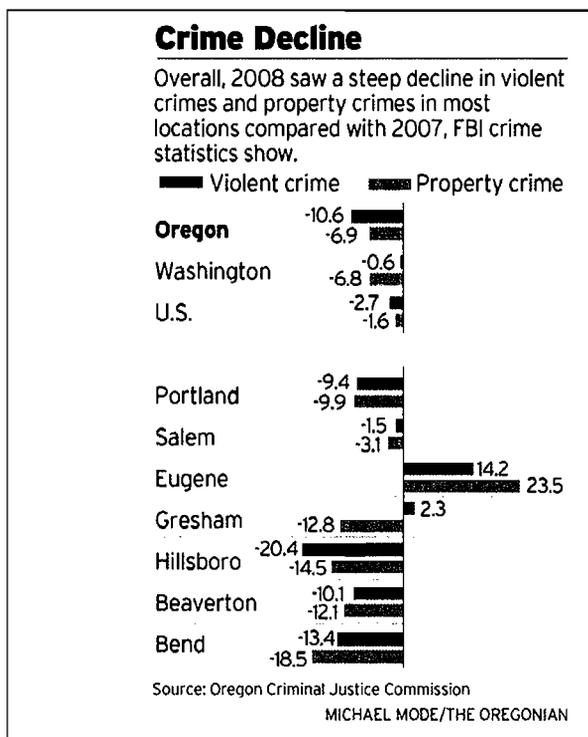
Craig Prins, a spokesman for the Oregon Criminal Justice Commission, said the state's crime rate began dropping in 2005. Meth-related arrests in the state are down 40 percent in the state since then.

Read more

- In October 2004, The Oregonian published a series called the "Unnecessary Epidemic." It revealed the conditions that fueled the rapid growth of methamphetamine abuse across the West during the 1990s and the early 2000s. The series showed that one of the prime problems was the easy availability of precursor drugs used to make meth. In 2005, Oregon tightened controls on cold and allergy medicines containing pseudoephedrine, a key ingredient. The state required cold pills to be put behind pharmacy counters, and the Legislature passed a law requiring a prescription for many decongestants. To read the series, go to oregonlive.com/special

- To see the FBI statistics that fueled today's report on crime, go to blog.oregonlive.com/oregonian_extra/ and look for "Crime rates down in nation, Oregon."

"Crime rates are local and they can be complicated," Prins said. "But 2005 is when we seemed to get on top of the meth problem. Without having to deal with meth labs and meth crimes, police can focus on interdiction on the I-5 corridor. We have also seen an increase in drug courts and drug treatment."



However, Lt. Michael Rouches, spokesman for the Hillsboro Police Department, said the city's 20.4 percent decrease in violent crime and 14.5 percent decrease in property crimes could be more complicated than a simple drop in the meth problem.

"How did our demographics change?" he said, wondering whether it's more a case of fewer young people living in that community.

"We know that most crimes are committed by people in their late teens to mid-20s. When we sit down and look at the numbers we'll also have to ask what are the things we did to make crime go down."

Rouches did say, however, that much of the decrease in property crimes can be tied to a decrease in meth arrests. And spending less time dealing with meth-related crimes allows officers to spend more time on the streets.

"When we are visible, crime goes down," he said.

Violent crimes are murder and non-negligent manslaughter, forcible rape, robbery and aggravated assault, according to the FBI, which compiles the data from about 17,000 law enforcement agencies across the U.S. Property crimes are burglary, larceny-theft, motor vehicle theft and arson.

Eugene showed the sharpest increase in violent crime, jumping from 426 in 2007, to 496 in 2008, a 14.2 percent increase. Property crime also jumped in Eugene, a 23.5 percent change from 2007 to 2008.

In July, Lane County officials blamed the spike on cuts to law-enforcement budgets.

In 2007, there were 1.2 law-enforcement officers in Lane County for every 1,000 people, a number that ranks among the lowest in the state, according to a recent study by the Oregon Criminal Justice Commission that measured public safety services in every county in Oregon.

By comparison, there are 2.0 officers for every 1,000 people in Multnomah County.

With a relatively low property tax compared with other Oregon counties and a drastic reduction in 2008 of federal payments from timber revenue, the county has had to cut staff from law

enforcement as well as cut jail beds. Neighboring Springfield showed no increase in violent crime from 2007 to 2008, but property crime leapt 21.1 percent.

Nationwide, murder and manslaughter dropped almost 4 percent last year, as reported crime overall fell around the country, according to FBI data.

The 3.9 percent decline in killings reported to police was part of a nationwide drop in violent crime of 1.9 percent from 2007 to 2008. Rapes declined 1.6 percent, to the lowest national number in 20 years, with about 89,000.

	UCR Violent Crime				UCR Property Crime			
	2007	2008	% Crime Change	% Crime Rate Change	2007	2008	% Crime Change	% Crime Rate Change
State	10777	9747	-9.6%	-10.6%	132143	124397	-5.9%	-6.9%
Portland	3701	3445	-6.9%	-9.4%	31586	29243	-7.4%	-9.9%
Salem	583	572	-1.9%	-1.5%	7436	7173	-3.5%	-3.1%
Eugene	426	496	16.4%	14.2%	7804	9821	25.8%	23.5%
Gresham	470	495	5.3%	2.3%	4332	3889	-10.2%	-12.8%
Hillsboro	195	162	-16.9%	-20.4%	2844	2536	-10.8%	-14.5%
Beaverton	220	200	-9.1%	-10.1%	2330	2072	-11.1%	-12.1%
Bend	155	139	-10.3%	-13.4%	2977	2513	-15.6%	-18.5%
Medford	265	282	6.4%	4.9%	3270	2882	-11.9%	-13.1%
Springfield	245	245	0.0%	-1.5%	3137	3858	23.0%	21.1%
Corvallis	57	60	5.3%	2.2%	1554	1341	-13.7%	-16.2%
10 City Total	17094	15843	-7.3%	-5.6%	199413	189725	-4.9%	-5.0%
Rest of State	4460	3651	-18.1%	-18.5%	64873	59069	-8.9%	-9.4%

--The Associated Press contributed to this report

The Oregonian

OP ED

Wednesday, June 16, 2010

By ROB BOVETT

Fighting methamphetamine: It's time that others followed Oregon's lead

Last week The New York Times ran a story about the federal government putting a hold on the release of a methamphetamine threat assessment prepared by the National Drug Intelligence Center.

According to the Times, the hold was due to concern that the report might upset international relations with Mexico prior to a visit to the White House by Mexican President Felipe Calderon. The report indicated that meth from Mexico is currently pure, cheap and plentiful, and that meth production in the U.S. would continue to decline as a result.

The next day The Oregonian ran an editorial about the report, and also raised the issue of how it's possible that Oregon has had such success in light of plenty of pure and cheap meth from Mexico.

There is a simple answer.

The NDIC report is wrong.

Most folks know about the "four C's" of diamonds -- cut, clarity, color and carat. For meth, it's the "four P's" -- purity, price, pounds and potency. Apparently the National Drug Intelligence Center didn't have access to adequate data and information about meth potency. As a result, its report contains incorrect analysis and conclusions.

Yes, meth coming from Mexico is pure, cheap and plentiful. But it's also weak. That's because Mexico has completely banned pseudoephedrine, the key ingredient necessary to make the powerful variety of meth that addicts seek.

Since the ban, drug-trafficking organizations haven't been able to smuggle enough pseudoephedrine into Mexico to meet demand. They've been forced to shift much of their production to a method that doesn't require pseudoephedrine but is more difficult and produces meth that's half as potent.

That's causing a surge of pseudoephedrine "smurfing" and meth manufacturing in the United States -- everywhere except Oregon. Smurfing is a term that refers to the lawful purchase of over-the-counter pseudoephedrine products that are later diverted to make meth. In the West, massive smurfing fuels "super labs" in central California. In the Midwest and South, it fuels thousands of small user labs.

The NDIC completely missed all of this. It relied on a federal meth lab incident database that is not up to date due to delayed reporting by many states.

Domestic meth production is not on the decline. It's increasing, at tragic levels. Smurfing is everywhere, except Oregon.

Many states and nations are now looking to the Oregon experience. In 2005, we pioneered a path away from drug policies based on fear and shifted to prevention, enforcement and treatment policies based on science. This included returning pseudoephedrine to a prescription drug, as it was prior to 1976. The payoff has been dramatic.

Last month, our nation's new drug czar, former Seattle Police Chief Gil Kerlikowske, released a new drug strategy that provides a more balanced approach, and one based on science and evidence. The strategy specifically describes Oregon's success when it comes to eliminating smurfing and dealing with the manufacture of meth.

It's been six years since the groundbreaking work of former reporter Steve Suo in The Oregonian's meth series, "Unnecessary Epidemic." Since that time, Oregon has played a pivotal role in providing real solutions and helping other states and nations. The results can be measured in lives and families saved.

Led by U.S. Sen. Ron Wyden, the Oregon congressional delegation is working to move our entire nation in the same direction.

It's time for the rest of Congress to pay attention.

Rob Bovett is Lincoln County district attorney.



Winning the War on Meth Labs

Oregon Law Makes Key Ingredient Available Only With Prescription

Saturday, March 20, 2010

By NEAL KARLINSKY and CARMEN PEREZ

The newest front lines in the war on meth have been drawn and this time they are your local pharmacy.

A meth user can't make methamphetamine without pseudoephedrine, the main ingredient in most over-the-counter cold medicines like Sudafed, so first Oregon and now Missouri and Mississippi have made those medicines available only with a prescription.

The success of those laws, particularly Oregon's, which has been on the books for five years, has lawmakers from California to Washington, D.C., considering ways to make it harder to get these drugs.

According to the United Nations, meth is the most abused hard drug on earth. Each year thousands of labs are busted across the nation; in 2008, 6,783 labs were discovered.

But in Oregon, monthly lab seizures have declined by 96 percent since requiring a prescription for medicines containing pseudoephedrine. In 2009, only 10 labs were discovered in Oregon, down from 192 in 2005 when the law was passed.

It was Rob Bovett of the Lincoln County District Attorney's office who pushed the state to pass the law requiring a doctor's prescription to purchase cold medicine.

Bovett is so consumed with beating the drug that he carries around the parts of a portable meth lab to show lawmakers how easy it is to make the drug when ingredients are available over the counter.

But Oregon was not always winning the war on meth. In 2001, at the height of the meth epidemic, the state was awash in meth labs. That year 1,480 were reported, according to the Drug Enforcement Agency (DEA).

Sgt. Erik Fisher of Oregon State Police said police were busting meth labs by the hundreds.

"We were tripping over meth labs," Fisher said. "It was everything we could do to stay ahead of processing those labs on a regular basis."

Nine years later, thanks in part to the crusading prosecutor, Oregon has almost completely eradicated all of its meth labs.

Meth-related arrests have also dropped by 40 percent from 956 arrests per month in 2007 to 541 per month in 2009.



Fight Over How to Win the War on Meth

Bovett said he fields calls from states that want to replicate Oregon's track record. Mississippi was the second state to pass a law similar to Oregon's. Missouri has also passed laws and states like California are strongly considering laws.

Bovett's success has also caused pharmaceutical companies to take notice. They have begun to wage their own war of sorts, challenging this law and others like it. Companies such as Johnson & Johnson, Pfizer and Merck say it is too hard for customers to buy cold medicine.

Pseudoephedrine is a very profitable business for companies, earning them more than \$500 million a year.

The Consumer Healthcare Products Association (CHPA) has launched a campaign to fight these laws. They are pushing for states to instead set up a computer tracking system to prevent abusers from making repeated purchases. They are even willing to pick up the tab for the tracking systems.

Oklahoma, Arkansas and Kentucky have launched these tracking systems with the financial backing of the industry, and Oklahoma has become the model state for using the system.

In the United States, meth use by teens has dropped by about 25 percent in the last three years, according to the National Institute of Drug Abuse.

Although the cold drug control laws and tracking systems have been successful at curbing the small labs that used to be responsible for much of the meth production in the United States, Mexican drug cartels have begun to pick up on this lucrative business.

Five main Mexican drug cartels have increased operations in the United States in recent years, according to the DEA.

According to Bovett, pharmaceutical companies are standing in the way of further success in the war on meth, but the CHPA and pharmaceutical companies say that their tracking systems are far more beneficial to the public.

The battle lines are drawn, and states continue to look to Oregon and Oklahoma as models for each of these systems.

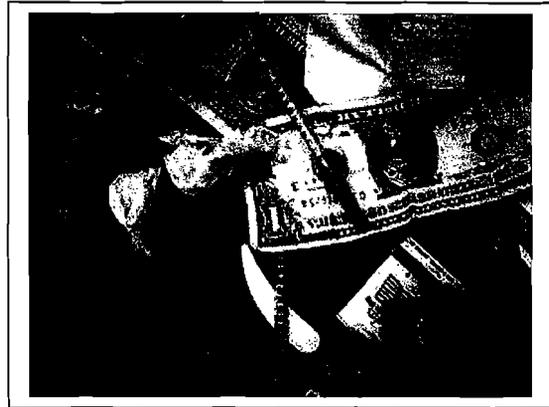
Oregon's Simple Solution to the Meth Epidemic

By David A. Graham | NEWSWEEK

Published March 26, 2010

From the magazine issue dated April 5, 2010

Methamphetamine makers across the country have expanded operations in recent years as demand for the feel-good drug has risen with unemployment. In Oregon, however, the once booming industry has nearly disappeared. Between 2005 and 2009 the number of lab seizures - the best indicator of production - dropped an astounding 96 percent, from 192 to 10, according to a recent report by the Oregon Narcotics Enforcement Association. Even more astounding: to get these results the state simply restricted cold and allergy medicines with pseudoephedrine, making this key meth ingredient unavailable without a prescription.



Were the rest of the U.S. to follow Oregon's lead, says Emory University professor Jean O'Connor, who studies meth policy, police could focus almost wholly on Mexican smugglers - America's top meth suppliers. The number of users would continue to fall as well. Last year in Oregon, meth arrests were half of what they had been in 2006, the year the law took effect.

But don't expect the stuff to be cleared from every corner of the country any time soon. While Mississippi has adopted Oregon's approach, at least 10 meth-afflicted states are sticking to a less effective eradication program: a database that lets pharmacists track pseudoephedrine purchases. It's a popular fix for lawmakers, since drug companies — protective of their \$500 million cold-and-allergy-care business — set up the systems for free, and runny-nosed voters can't complain. But it's popular with dealers, too, who can dupe the system with an army of small-batch buyers. In Oklahoma, for example, the database has cut lab seizures by about 50 percent — a significant number, but still shy of Oregon's silver bullet.

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MEMORANDUM

TO: Governor's Alcohol and Drug Policy Commission

FROM: Rob Bovett, Chair, Oregon Meth Task Force 

DATE: October 2, 2009

SUBJECT: Oregon drug control policy accomplishments, challenges, and lessons

In December of 2003, Oregon Governor Ted Kulongoski announced the formation of the Meth Task Force for the purpose of proposing and implementing strategies to address the epidemic of methamphetamine abuse and addiction that was tearing apart families, neighborhoods, and communities throughout Oregon. The Task Force, consisting of a wide range of prevention, enforcement, and treatment professionals, began its work in 2004.

After five years, the Oregon Meth Task Force has now concluded its challenging work toward remedying the meth epidemic and furthering science-based drug control policy in the State of Oregon.

At its final three-hour meeting on September 4, 2009, the Task Force spent its first hour reviewing some of its accomplishments, the second hour reviewing a few of the challenges that lie ahead, and our final hour hearing from Oregon Attorney General John Kroger regarding the upcoming work of your new Commission.

At the suggestion of the Task Force and General Kroger, I have prepared this memo, with assistance from Task Force members. The purpose is to briefly review accomplishments, challenges, and lessons learned, in hope they will be of some benefit to the Commission as it embarks on its new and exciting journey.

In a sense, this memo is the passing of the torch from the Task Force to the Commission, although we are fully aware that there are many torches being handed off to the Commission from various task forces and councils. We are excited and optimistic about the new Commission's membership and charge. Our members stand ready to assist the Commission in any of its future endeavors.

A. ACCOMPLISHMENTS

Not listed in any order of significance or importance:

2004 to 2009:

- Teamwork and collaboration:
 - We started as a group of prevention, enforcement, and treatment professionals working in our own silos. We quickly broke down those silos and found that we dramatically multiplied our power and effectiveness. We have built relationships among and between us that will last a lifetime.
- Prevention and public awareness campaign:
 - We utilized public involvement, the media, and community coalitions to mobilize and coordinate efforts to move public policy. This is the key that drove all of our other accomplishments.
- Action:
 - The Task Force generated recommendations and reports, but we also worked hard to implement those recommendations. These reports were instrumental in creating a record of what we had already presented to the legislature and still needed to work on. In short, we were an action team.

2005 Legislature

- HB 2485: Among other things:
 - Declared exactly what needs to be done.
 - Provided for abatement of meth houses.
 - Effectively controlled pseudo/ephedrine (PSE), the key ingredient necessary to make meth, by returning PSE to a prescription drug, in order to eliminate “smurfing” and virtually eliminate meth labs in Oregon. This has recently become a national model, in light of the massive resurgence of smurfing and meth labs throughout the rest of our nation.
 - Expanded drug courts throughout Oregon by way of Criminal Justice Commission grants. Drug courts are one of the most powerful evidence-based tools to reduce crime and save lives and families ravaged by addiction.
- SB 907: Among other things:
 - Provided for intervention and services for drug endangered children, the most tragic victims of the meth epidemic.
 - Broke out the big five drugs of abuse and separated them from the schedules of controlled substances, for effective tracking and to enable responsive polices based on more than just medical utility and potential for abuse (e.g., also take into account personal, family, and social harm).

NOTE: HB 2485 and SB 907 comprised the “2005 Oregon Anti-Meth Package,” which is, to this day, the most effective and powerful anti-meth legislation in the nation.

2007 Legislature

- Budget
 - Secured funding for Intensive Treatment and Recovery Services (ITRS) for addicted families. Over 2,700 parents accessed the evidence-based ITRS during the 2007-2009 biennium, 571 parents successfully completed treatment, and 484 parents met family reunification requirements.
 - Secured funding for the Strengthening Families Program to provide evidence-based support and training for at-risk families to reduce drug use, addiction, and crime. The program results in significant decreases in substance abuse and significant increases in family harmony and involvement.
 - Secured continuing funding for Oregon's drug courts for the 2007-2009 biennium.
- HB 2348:
 - Repealed the antiquated UPPL, which distorted emergency room coding of illness and injury away from substance abuse, and unfairly discriminated and stigmatized addiction.
- HB 2309:
 - Provided alternative bonding for meth lab cleanup.

2009 Legislature

- Budget
 - Secured continuing funding for Intensive Treatment and Recovery Services (ITRS) for addicted families for the 2009-2011 biennium.
 - Secured continuing funding for Oregon's drug courts for the 2009-2011 biennium.
- SB 355:
 - Enacted a long overdue Prescription Monitoring Program to provide doctors and pharmacists with an effective tool to help prevent prescription drug abuse through doctor shopping, and increase the appropriate prescribing of pain management medication by reducing physician fear of doctor shopping.
- SB 356 (and HB 3457 from 2005 and Measure 53 from 2008):
 - Reformed and restored Oregon's forfeiture laws to ensure that innocent owners are protected and that convicted drug dealers are not able to keep their ill gotten gains.
- SB 570
 - Comprehensive metals theft prevention using the State of Washington metals theft law as a model, but improving upon that model by filling in the gaps identified by our Washington colleagues.

Federal and International

Because meth knows no borders, individual Task Force members also worked hard to implement effective strategies to control meth on national and international levels:

- 2005 SM 3:
 - Asked Congress to effectively control PSE.
- 2005:
 - Helped craft the Combat Methamphetamine Act and the Methamphetamine Epidemic Elimination Act, which would later be merged, after being watered down, into the enacted Combat Methamphetamine Epidemic Act. The unfortunate watering down is the current cause of the meth lab resurgence all across our nation (except Oregon, of course).
- 2009:
 - Helping to promote the draft Meth Lab Elimination Act, sponsored by US Senator Ron Wyden, which would implement the Oregon model on a national level (returning PSE to prescription only).
- Mexico:
 - Worked with Mexico's Attorney General and their drug regulatory agency (COFEPRIS) to effectively control PSE. Mexico followed Oregon's lead by making PSE a prescription drug, and then banned PSE entirely. Five other nations have followed Mexico's lead. The effects were reduced meth purity and increased meth price.

B. SOME CHALLENGES

The Task Force recognizes that there are many challenges ahead, as well as opportunities, in the area of drug control policy and strategy. We will not attempt to list all of those issues. However, the Task Force did feel that we would be remiss if we did not point out a few specific items for which the Task Force has been the champion, and for which we feel the Commission should now take a leading role to ensure that progress made is not lost in the shuffle:

- Drug Courts:
 - Through years of efforts working with legislators, we have expanded drug court programs throughout Oregon. Drug Courts not only provide evidence-based accountability and treatment, they save lives and families. Furthermore, drug courts bring treatment and justice professionals together in collaborative teams, which have tremendous secondary benefits in the community. Especially in light of turn-over in the legislature, it is vital that the Commission continue to champion Oregon legislative support for our drug courts, as well as other problem-solving courts.

- **Bad Trends: Prescription Drug Abuse, Underage Drinking, and Heroin:**
 - The Task Force is particularly concerned with continuing trends indicating increasing high levels of underage drinking, as well as increasing abuse and addiction to prescription drugs and heroin, especially among our youth and young adults. There is much work to be done in the areas of public awareness, prevention, enforcement, and treatment. Oregon now has a golden opportunity to get ahead of, and reverse, these unfortunate trends, and we strongly encourage the Commission to focus its valuable energy and resources toward this important and critical endeavor.

- **Meth:**
 - While it is true that we have nearly eradicated meth labs and driven meth abuse down dramatically in Oregon (in stark contrast to the rest of the nation), there can be no doubt that meth remains, by far, Oregon's number one illicit drug abuse problem. It is vitally important that the Commission work to protect progress made, and further the cause in the effort to stem the tide of the personal, family, and social destruction caused by methamphetamine abuse and addiction.

C. A FEW LESSONS LEARNED

Some of the lessons learned flow directly from the accomplishments, experiences, and challenges listed above. Here are a few to highlight:

- **Teamwork and collaboration:**
 - To some extent, the Task Force initially had to struggle through preconceived notions, primarily driven by experience operating within a single professional silo. Once these barriers were broken and Task Force members began listening to, and learning from, each other, strategies and plans evolved with new and exciting power and effectiveness.

- **Task Force Operations:**
 - The Task Force broke into subcommittees that focused on specific issues (Law Enforcement, Treatment, Community Involvement, Drug Endangered Children, Precursors, Oregon Trail Card), which closed down as their work was completed. Each subcommittee developed recommendations which were then presented to the entire Task Force for discussion and approval. Often the recommendations were sent back to the subcommittee for more work, and some recommendations were not approved.
 - A key to the breaking of barriers was that the first Chair of the Task Force (Walt Myers) made sure to remain neutral while proposals were made, in order to ensure open communications and facilitate the effective operation of the Task Force. Each subsequent Chair maintained that approach.

- **Comprehensive strategies:**
 - The Task Force realized quite early that many of its strategies needed to look at the broader issues of addiction, and could not focus exclusively on meth.

This invariably led us into areas that were not technically our charge, but needed to be addressed. We are pleased to see that the new Commission's charge is broad, and we encourage the Commission to be surgical when surgery is called for, and global when a broad strategy is needed.

- Don't give up:
 - Some of the Task Force recommendations required many years and multiple legislative sessions to accomplish and implement. At times, incremental gains toward ultimate goals should be viewed as progress. At other times, bold action is not only called for, but attainable. Don't be afraid to gladly accept small progress when that is the best that can be accomplished, and strive and fight for bold action when that is what is necessary.

As stated above, we are very optimistic that your new Commission will accomplish great things for the State of Oregon, and very much look forward to learning of the Commission's work for the benefit of all of Oregon's citizens.

Finally, we wish to extend special thanks to:

(1) Governor Ted Kulongoski for the vision to form the Task Force, entrust us with a vitally important mission, and support and encourage our efforts to develop and implement numerous highly successful strategies.

(2) Senator Ginny Burdick, former Senator Roger Beyer, Representative Wayne Kreiger, and former Representative Greg Macpherson, better known collectively as the 2005 Oregon Meth Caucus, who had the wisdom and determination to take bold action to help lead Oregon toward solutions.

(3) The director and staff of the Oregon Criminal Justice Commission, and the Governor's Senior Policy Advisors, who provided incredibly high quality and effective support for the work of the Task Force. Without their aid and assistance, none of the Task Force accomplishments would have been possible.

pc/ec: The 2005 Oregon Meth Caucus:

Senator Ginny Burdick
Former Senator Roger Beyer
Representative Wayne Kreiger
Former Representative Greg Macpherson

Meth Task Force former Chairs:

Walt Myers, Salem Police Chief (Ret)
Darryl Larsen, Lane County Circuit Court Judge (Ret)
Anna Peterson, cofounder, No Meth Not In My Neighborhood Task Force

Meth Task Force Steering Committee members

Meth Task Force members

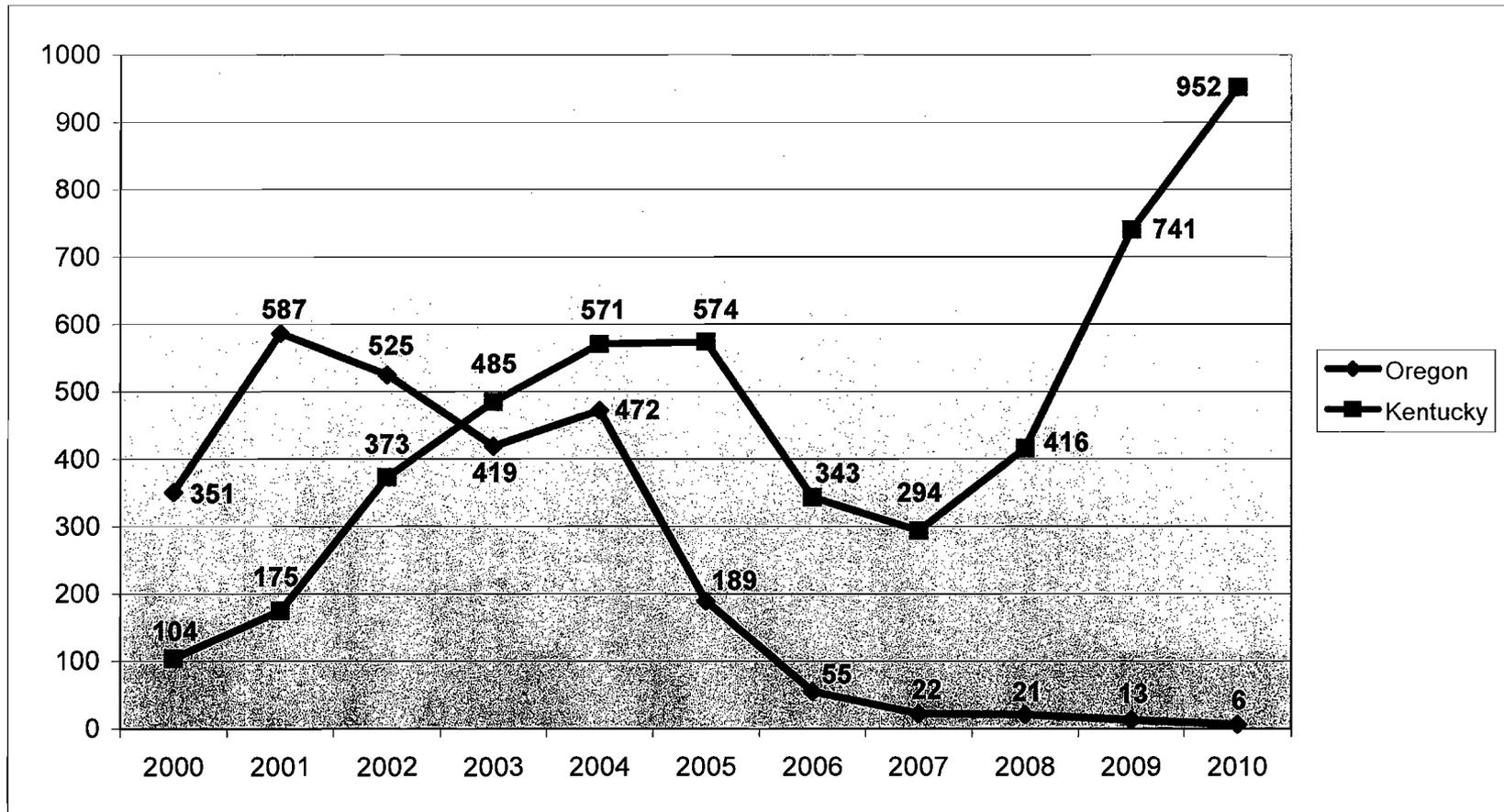
Joe O'Leary, Senior Policy Advisor, Governor Ted Kulongoski
Craig Campbell, former Senior Policy Advisor, Governor Ted Kulongoski
Craig Prins, Director, Oregon Criminal Justice Commission
Mike Stafford, Staff, Oregon Criminal Justice Commission and Meth Task Force
Devarshi Bajpai, Staff, Oregon Criminal Justice Commission and Meth Task Force
Bill Taylor, Counsel, Judiciary Committees, Oregon Legislature
Annola Dejong, Staff, Judiciary Committees, Oregon Legislature

Meth Lab Incidents*

Comparing Oregon and Kentucky trend lines

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Oregon	351	587	525	419	472	189	55	22	21	13	6
Kentucky	104	175	373	485	571	574	343	294	416	741	952

* Annual numbers are directly from each state; 2010 is an estimate based on doubling the number for the 1st half of 2010 (3 and 476, respectively).



THE TAKE-DOWN



Summer
2010

The Official Newsletter of the Kentucky Narcotic Officer's Association

A Message from the President



INSIDE THIS ISSUE:

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A great deal has taken place since our conference in December.

At the general membership meeting you voted unanimously to support the scheduling of pseudoephedrine to significantly reduce methamphetamine labs in the Commonwealth. Representative Linda Belcher, Martha Jane King, and Jody Richards filed HB 497. This bill would have required a prescription to obtain pseudoephedrine the main precursor for meth labs. This bill did not receive a full committee hearing in the House but it received an informational hearing in the House Health and Welfare Committee Chaired by Representative Tom Burch. This bill never made it to a vote. Please write, call, or email the above mentioned Representatives and thank them for their support.

Opponents of HB 497 spent more than \$300,000 in the last session of our legislature on this issue. They also spent a significant amount of money on advertising in major Kentucky newspapers and radio stations as well.

The industry tells citizens that requiring a prescription for pseudoephedrine will cause them to have to go to their doctor when they need this medicine, increase Medicaid cost, and impacts the poor. (1) a doctor can phone in a prescription if you really need it, not requiring an office visit every time. (2) Oregon's Medicaid cost increased by around \$8,000.00 the year after they scheduled it and Kentucky spent \$1.5 million cleaning up meth labs in 2009. It seems to me that the \$8,000.00 Medicaid increase would be much less than the cost to clean up the meth labs. (3) Oregon saw no impact on the poor after scheduling Pseudoephedrine because they were still able to use other over the counter allergy medications approved by the Federal Drug Administration or their prescription was paid for by Medicaid.

The industry tells citizens that if pseudoephedrine is scheduled people will doctor shop it just like they do pain medications such as Oxycodone and Hydrocodone. Since prescription drugs are one of the most abused drugs in this country, the argument sounds good. Unfortunately, they do not mention that pain medications and allergy medications are two separate categories of drugs. There are few alternatives to pain medications. There are numerous al-

ternatives to pseudoephedrine, just look on the shelf at the pharmacy. Oregon has not seen doctor shopping of pseudoephedrine since they scheduled it in 2006.

The industry tells citizens that electronic tracking of pseudoephedrine 'prevents the illegal sale of pseudoephedrine by blocking the sale'. Unfortunately, the industry does not mention that smurfers continue to buy pseudoephedrine using fake ID's or by buying under the limit. The industry says "Kentucky sheriffs report that electronic tracking leads to 70-100% of meth lab busts". A review of 2009 meth lab statistics show only 10% of the meth labs in Kentucky were found by electronic tracking.

I have had the opportunity over the last few months to travel to Washington D.C, California, Texas, and Arizona to meet with different law enforcement groups on this issue. The detectives I have met that clean up meth labs and run around chasing smurfers support scheduling of pseudoephedrine just like you do.

The manufactures of pseudoephedrine and electronic tracking companies are telling legislators how law enforcement should investigate meth labs by using electronic tracking of pseudoephedrine sales. Legislators should listen to the people who are on the front line of this issue cleaning them up. If you are tired of cleaning up meth labs, finding children in meth labs, responding to meth lab fires, and watching your millions of dollars of tax money being spent to clean up meth labs; CALL YOUR SENATOR AND REPRESENTATIVE AND TELL THEM TO SUPPORT SCHEDULING OF PSEUDOEPHEDRINE.

Please be aware of the change of dates for our conference this year; November 1st, 2nd, and 3rd. I look forward to seeing everyone there. Vic Brown has an excellent training session set up.

Check the <http://www.kynarc.org/> web site for registration information for the conference coming soon.

Be safe.



KNOA President
Stanley Salyards



**KENTUCKY NARCOTIC
OFFICERS' ASSOCIATION**

Stanley W. Salyards
President
Louisville Metro Police Department

Thomas M. Loving
Executive Director
Bowling Green – Warren County
Drug Task Force

David Keller
Immediate Past President
Appalachia HIDTA

Victor L. Brown
1st Vice President
Kentucky State Police
Appalachia HIDTA

Bryan W. Smoot
2nd Vice President
Lexington Division of Police

Deron Berthold
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Mike Brackett
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Jefferson County Sheriff's Office

Jeff Scruggs
Sergeant at Arms
Barren – Edmonson County
Drug Task Force

Marie Allen
Executive Board Member
Kentucky Alcoholic Beverage Control

Richard Badaracco
Executive Board Member
Drug Enforcement Administration, Retired

Mark Burden
Executive Board Member
Kentucky State Police

Robbie Clark
Executive Board Member
Lake Cumberland Area Drug Task Force

Jennifer Carpenter
Executive Board Member
Office of the Attorney General

Dan Smoot
Executive Board Member
Operation UNITE



August 5, 2010

Congressman Ed Whitfield
2411 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Whitfield:

On December 7, 2009, the Kentucky Narcotics Officers Association (KNOA), representing over 300 narcotics officers throughout Kentucky, voted unanimously to approve and support the designation of pseudoephedrine (PSE) as a scheduled (prescription) drug. The membership believes this action is the most effective means to combat increasing clandestine methamphetamine laboratories (meth labs).

In the late 1990's, the Commonwealth of Kentucky began to experience an increase of illegal clandestine methamphetamine labs throughout the state. The numbers steadily increased until peaking in 2004/2005. In June 2005, a newly created Kentucky statute required that pseudoephedrine (PSE), the prime ingredient in illegally produced methamphetamine, be sold only from licensed pharmacies and that each sale must require a photo identification card from the purchaser and be recorded in a log subject to inspection by law enforcement. The "pharmacy log" statute had the immediate effect of substantially reducing clandestine meth labs in the state. Kentucky clan lab numbers went from 600 in 2004 to 302 in 2007, a decrease of nearly 50 percent. Throughout 2006 and the first half of calendar year 2007 the number of clan labs continued to show a decrease. However, this downward trend gave way to increasing monthly totals in the second half of 2007, resulting in a year-end total of 302 clan labs.

On June 1, 2008, in an effort to further reduce clandestine lab production, Kentucky law required the pharmacy logs to be reported on an electronic recordkeeping mechanism prescribed by state government. The Kentucky electronic tracking system is accessible to Kentucky law enforcement agencies for tracking the sales of PSE. However, despite the new electronic tracking system, Kentucky's 2008 clan lab response numbers rose to 428, up from 302 in 2007, an increase of 41 percent. In 2009, Kentucky experienced a 74 percent increase over 2008, with a total of 743 clan lab incidents. In its first year of operation, June 2008 through May 2009, the electronic tracking system blocked 18,000 sales of pseudoephedrine. However, the electronic tracking system had basically no impact on the number of labs in Kentucky. We have been able to establish that 52 meth labs in 2009 were found due to our electronic tracking. We further believe that the large increase in meth labs located was not due to electronic tracking as some would have you believe.

There are two predominant factors contributing to the proliferation of Kentucky meth labs. The first is that many individuals and organized groups developed methods to circumvent the pharmacy log and electronic tracking system laws through actions that allow them to acquire PSE products in excess of legal limits. Law enforcement refers to this technique of multiple PSE purchases as "smurfing." The second factor is that a substantial number of clan lab cooks are now using the "one pot" or "shake and bake" method to produce small amounts of the illegal drug. This is a very quick and very dangerous production technique that usually yields less than two ounces of finished product. It allows the cook to generate methamphetamine without requiring the purchase of PSE product amounts in excess of legal purchasing limits or triggering a blocked sale.

By contrast, in 2006, the state of Oregon enacted a law requiring a prescription for all PSE products. Oregon's clan lab response numbers went from 472 in 2004 to 10 in 2009, a 98 percent decrease. Based on the information and data available from Kentucky and other states, the Kentucky Narcotic Officers' Association (KNOA) considers Oregon's model the only method to significantly and lastingly reduce the number of meth labs in Kentucky. Meth labs cost the citizens of Kentucky millions of dollars in law enforcement and emergency services response time, hazardous waste clean up and disposal, social services, prosecution and incarceration. Meth labs are increasingly found in apartment buildings, hotels, rental property and near schools. Meth labs impact innocent bystanders to a much greater degree than any other illegal drug.

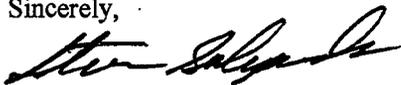
The KNOA is a non-profit organization of drug law enforcement officers from numerous city, county, federal and state law enforcement agencies across the Commonwealth. KNOA is a professional organization dedicated to enhancing the safety and security of Kentucky's communities through the education, training and professionalization of the men and women involved in investigating drug crimes throughout the state. We are not alone in our belief as reflected in the partial list of public service organizations that support scheduling of pseudoephedrine in Kentucky:

1. Kentucky Narcotics Officers' Association
2. Kentucky Association Chiefs of Police
3. Kentucky Commonwealth Attorneys Association
4. Kentucky State Police
5. Kentucky Association of Family Practitioners
6. Appalachia HIDTA Drug Task Forces
7. Operation UNITE Drug Task Force (Original Pilot Project for MethCheck)
8. Bowling Green – Warren County Drug Task Force
9. Warren County Sheriff's Office (Sheriff Gaines Named National Sheriff of the Year by NSA)
10. Louisville Metro Police
11. Louisville Metro Health Department
12. Louisville Metro Board of Health
13. Louisville Fire Department
14. Louisville E.M.S.
15. Greater Louisville Medical Society Public Safety Committee
16. West Jefferson County Community Taskforce
17. Lake Cumberland Area Drug Task Force
18. South Central Kentucky Area Drug Task Force
19. Barren/Edmonson County Drug Task Force

KNOA is asking for your support in taking this issue to the United States Senate. Our goal in this effort is to educate lawmakers and others like you about the extraordinary costs to health and public safety in the United States. Meth lab incidents are rapidly increasing. These labs continue to be an impending threat to the health, physical safety and environment of our neighborhoods. With the number of unlawful pseudoephedrine shoppers in Kentucky estimated to be in the thousands, law enforcement's duty to intervene effectively in the illegal purchasing process is insurmountable. We believe that the best solution to combat this alarming threat is to make pseudoephedrine available only by prescription.

If you require additional information, have questions, or want to know how you can help, please contact KNOA Executive Director Tommy Loving at (270) 843-5343 or KNOA President Stan Salyards at (502) 718-8406.

Sincerely,



Stan Salyards, President



**KENTUCKY NARCOTIC
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*Executive Board Member
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Dan Smoot

*Executive Board Member
Operation UNITE*



Kentucky Narcotics Officers' Association

Position Statement

January 14, 2010

On December 7, 2009, the Kentucky Narcotics Officers Association (KNOA), representing over 300 narcotics officers throughout Kentucky, voted unanimously to approve and support the designation of pseudoephedrine as a scheduled (prescription) drug. The membership believes this action is the most effective means to combat increasing clandestine methamphetamine laboratories (meth labs).

During 2009 in Kentucky, 716 methamphetamine labs were discovered and eliminated. 146 of these labs were discovered and eliminated in Jefferson County by the Louisville Metro Police. Louisville Metro has had one meth lab related death in 2009 as well as one the previous year. A 22 month-old child also died during 2009 after drinking acid in a meth lab in Southeastern Kentucky.

The number of meth lab seizures in Kentucky peaked in 2004. In June 2005 a state law was enacted which required pseudoephedrine be sold in a licensed pharmacy, photo identification with the sale, and the recording of the sale on pseudoephedrine log. This log was subject to inspection by law enforcement. Following implementation of this state law, the number of clan labs decreased from 589 in 2005 to 328 in 2006, a decrease of 44% in all Kentucky counties except Jefferson County. Throughout 2006 and until the second half of 2007 the numbers of clan labs reported on a monthly basis continued to decrease in every county except Jefferson.

In the second half of 2007, the number of meth lab seizures increased to 302 labs. These increases continued throughout the year of 2008. In June 2008, in another attempt to curb the meth labs, the Kentucky legislature enacted a law requiring pharmacies to record pseudoephedrine purchases in a computerized database. The computerized system, known as MethCheck, was available to law enforcement. In its first year of operation, June 2008 through May 2009, MethCheck blocked 18,000 sales of pseudoephedrine. However, the MethCheck system apparently had little impact on the number of labs in Kentucky.

Kentucky's numbers had increased to 428 lab seizures during calendar year 2008, from 302 in 2007, a percentage increase of 41%. The criminal meth manufacturers developed a method to circumvent the law by paying individuals to purchase the maximum amount of pseudoephedrine every 30 days. This is referred to as smurfing. Our opponents say smurfing will continue through physician visits. We contend that it will be much more effective to police a few physicians than thousands and thousands of smurfing individuals.

Until 1976, pseudoephedrine was a prescription drug in the United States. Oregon was the first state to reclassify pseudoephedrine as a scheduled (prescription) drug in 2006. Oregon meth lab seizures have continued to decrease since the scheduling. In 2004, the Oregon meth lab seizures were 472. In 2005, after restriction of sales, the number dropped to 189. In 2006, following scheduling of pseudoephedrine by Oregon the number of meth labs seizures dropped to 55. Unlike other states, this rate of decrease has continued and in 2009, there were only 10 meth labs seized. (information obtained from DEA). In two states, Kentucky, which implemented the MethCheck Program and Oklahoma, which also implemented electronic reporting the number of meth labs, has increased. Kentucky spent over **\$1,617,634** during 2009 in meth lab clean up. This money could have been used in other needed areas if pseudoephedrine was a scheduled (prescription) drug.

Appalachia High Intensity Drug Trafficking Area (HIDTA) Drug Task Forces have seen a 380% increase of children found in meth labs this year. These task forces span the state from Bowling Green to Pikeville.

The scheduling of pseudoephedrine has not caused medical expense to soar in Oregon as advocates for the drug manufacturers would have you believe. Walk in any pharmacy in Kentucky and go to the cold and flu aisle. You will find many medications to relief the same symptoms as pseudoephedrine products. Also, remember there is no cure for the common cold and pseudoephedrine does not cure any medical condition.

If you are tired of meth labs in your community, tired of children being exposed to toxic chemicals, and tired of spending millions of dollars of tax money to clean up meth labs; pick up your phone and let your elected officials know that you want to join us in making pseudoephedrine a scheduled (prescription) drug.

Stanley Salyards
President 2010

David Keller
President 2009

Thomas M. Loving
Executive Director

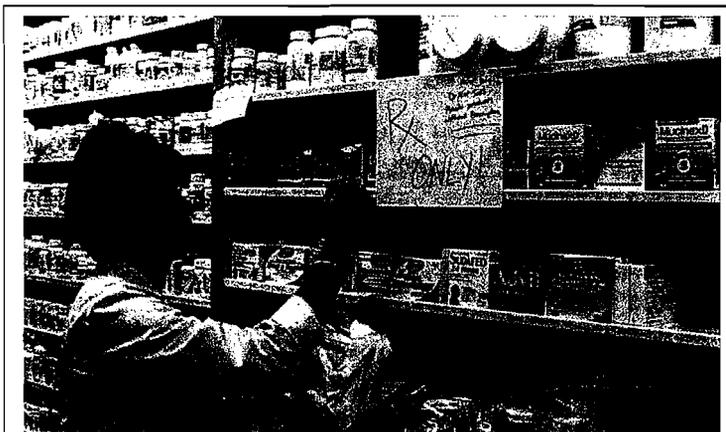
Enterprise-Journal

Drug agents hope new law is prescription for meth eradication

Sunday, August 15, 2010
By Angelia Parker, Enterprise-Journal

A law that took effect in July treats pseudoephedrine like a Schedule III controlled substance — an illegal drug. Without a prescription, possession is illegal and could result in a range of criminal charges.

Before July, consumers needed only a photo ID to purchase what are now prescription-only medications containing pseudoephedrine. For some, the law is an inconvenience and means an additional expense of a trip to the doctor's office to obtain a prescription.



Aaron Rhoads, Enterprise-Journal
Super D pharmacist Anna Platt gets a box of cold medicine for a customer. A law that took effect July 1 requiring a prescription for medication containing pseudoephedrine is helping combat meth, drug agents say.

"It makes it hard for people with legitimate issues," said Keith Guy, a pharmacist and owner of Guy's Pharmacy in McComb.

But for law enforcement, the law is a wrench in the spread of crystal methamphetamine labs already peppered across the state, as it limits one of the main ingredients in the meth-making process.

With just six weeks on the books, the new law seems to be working. Figures from the Mississippi Bureau of Narcotics show a 50 percent drop in cases involving meth labs statewide in July 2010, with 22 arrests, compared to July 2009, which had 46.

Mississippi is the second state in the nation, after Oregon, to require a prescription for pseudoephedrine for medicines such as Sudafed, Advil Cold and Sinus, Bronkaid, Primatene, Claritin-D, Aleve-D, Nyquil-D, Mucinex D, Tylenol Sinus and Severe Cold, and Zyrtec-D.

Narcotics agents hope it will stop the spread of the drug that accounts for one-third of drug-related arrests in Mississippi.

"Last year was the first time the number of meth arrests exceeded arrests for powder and crack cocaine," said Lt. Eddie Hawkins, methamphetamine field coordinator for the Mississippi Bureau of Narcotics.

* * *

As narcotics agents watched the number of meth labs in the state more than double, from 300 in 2008 to 722 in 2009, they knew something had to change.

"It used up a lot agent hours to track down leads we got from the old system," said MBN Director Marshall Fisher. "We were neglecting other areas tracking down possible leads."

There were loopholes within the old system, which meth-makers exploited, Fisher said.

"We found out drugstore employees were making extra money buying pseudoephedrine for friends, customers — whoever," Fisher said.

"And the old system only tracked purchases by drugstores," Fisher said.

The meth problem had outgrown the old tracking system, which required only a photo ID to purchase products containing pseudoephedrine.

"We arrested a guy with 60 IDs," Fisher said.

He said people racked up large quantities of pseudoephedrine by "smurfing," which is drug agent slang for a group of people buying pseudoephedrine with different IDs at different drugstores.

Unless pseudoephedrine sales faced more scrutiny, the meth problem would only worsen, Fisher said.

"Just this year, we've made 548 arrests for meth-lab incidents. And that's just the bureau," he said.

Southwest Mississippi Narcotics Enforcement Unit Commander Tim Vanderslice is confident in the law, although he acknowledges people will continue buy pseudoephedrine in places where it is available without a prescription, such as Louisiana.

"As long as somebody wants to do something, we can't stop them," he said. "We may not be able to stop it, but we can at least knock out some of it."

* * *

Fisher said the reasons for making meth a prime target for eradication are numerous.

"Meth is a public health and safety issue," he said.

"The number of incidents of sexually abused children in homes where parents use or manufacture meth is off the charts."

This year agents in Mississippi have removed 140 children from homes where the parents or guardians are suspected of using or manufacturing meth.

"When they're using, their kids are not a priority anymore," Fisher said, adding that most children who are removed from homes where meth is an issue are scarred for life.

"I've never heard of any parent — rehabilitated or not — who ever made any attempt to petition the court to regain custody of their children," he added.

Finding a responsible relative to leave the children with is another common problem, Fisher said.

"We have no way of knowing if a relative will provide a safe environment for these children," he said.

Then there are the environmental concerns.

Meth is highly addictive and potentially fatal, and the manufacturing process is one of its a dangerous aspect of the drug. A combination of chemicals and high temperatures produces toxic fumes and a volatile and highly combustible situation.

"Cleaning up a meth site can cost \$2,500 to \$7,500. It's the only drug with ancillary costs," Fisher said.

Another expense is agent certification. Agents handle all garbage associate with the manufacture of meth as hazardous waste. They earn certification through intense training, where they practice contained breathing and how to properly remove protective clothing.

* * *

Meth manufacturers and people with colds are not the only ones the law affects. Pharmacists also have concerns.

"Most drug companies started reformulating products when they realized people were using (pseudoephedrine) illegally," said Anna Platt, a pharmacist at Super D Drugstore in McComb.

She said drug companies replaced psuedoephedrine with phenylephrine, a decongestant designed to work like pseudoephedrine.

Though Guy prefers homeopathic remedies, he thinks pseudoephedrine provides more effective symptom relief.

"From a financial standpoint, it could hurt pharmacies," he said.

He said pharmacies will lose money if they do not sell medicine that is prescription-only under the new law.

Dr. Andy Watson of StatCare in McComb said the law has not had any affect on his practice or costs of office visits.

"There are hundreds of decongestant combinations of decongestants they prescribe for colds and sinus infections," he said.

Though not a significant amount, Watson has written prescriptions for Claritin-D and Sudafed since the law took effect.

John Roberts, pharmacist and owner of Corner Drugstore in Magnolia, is optimistic about the law.

"My customers won't have any problems getting prescriptions," he said.

Familiar with the majority of his customers, Roberts said people have asked about the law but no one has complained.

He said all prescription medications do not necessarily cost more than over-the-counter medications.

In fact, he thinks the law could be beneficial to some because some insurance companies only pay for prescription medications.

* * *

Along with other law enforcement officials, Fisher studied the success Oregon experienced after enacting similar legislation in 2005. Agents in Oregon saw a 96 percent decrease in the number of meth labs in 2006.

Fisher is confident Mississippi will experience similar success.

"It'll take one-and-a-half to two years before we see maximum results," Fisher estimates.

Fisher said drug companies were the biggest source of resistance to the legislation.

"Members of the Mississippi Medical Association, Mississippi Board of Independent Pharmacists, Board of Pharmacists and Mississippi Board of Medical Licensure all lobbied with us to get this legislation passed," Fisher said.

He described this as a genuine bipartisan issue, with support on both sides of the aisle.

"Politicians who usually cannot agree on anything agreed on this," he said.

Aware of critics of the legislation, Fisher understands the law is an inconvenience for some people.

"If the law doesn't work then the critics can blame me," he said.

"Even if we only save a few children, then it's worth it to me."

The Mississippi Press

Meth arrests down in July in Jackson County

Monday, August 9, 2010

Cherie Ward, The Mississippi Press

An anti-methamphetamine law tightening distribution rules for pseudoephedrine took effect in July and some drug agents are saying it's already making a difference in meth-related arrests.

"But, it will take a good 90 days or six months to get a true snapshot of the effects throughout the state," said Marshall Fisher, director of the Mississippi Bureau of Narcotics.

Pseudoephedrine -- commonly found in the nasal and sinus decongestant Sudafed -- is the key element in the meth-making process. As of July 1, state law requires that pseudoephedrine be available through a doctor's prescription only. Mississippi and Oregon are the only states with such a law.

"With only two states with this type of law, we'll still have smurfers going across state lines and people that hoarded it," Fisher said. "We're seeing results, but it could be a year before we see a significant reduction."

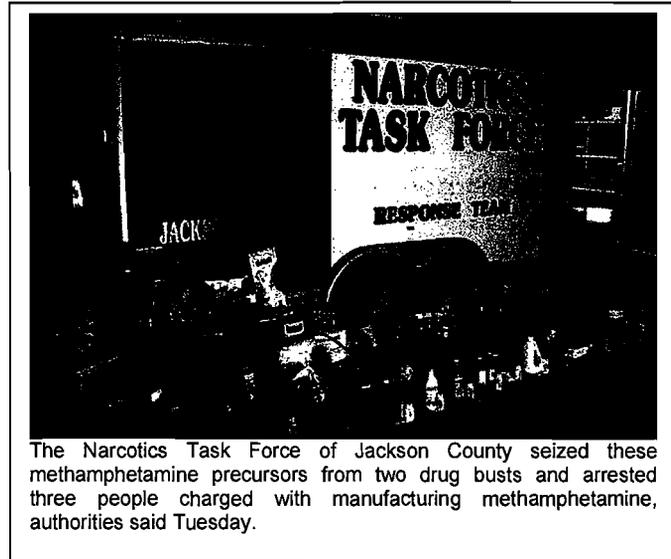
Lt. Curtis Spiers, commander of the Narcotics Task Force of Jackson County, reported in December that the number of methamphetamine arrests in 2009 topped cocaine arrests in Jackson County for the first time in the task force's 20-year history, with 222 meth arrests and 93 meth lab seizures.

"From January through July of this year, we've had 238 meth arrests," Spiers said.

The arrests outweigh other apprehensions, including 83 for cocaine and 86 for marijuana so far this year. There also have been 142 meth lab seizures since January.

Fisher said the statewide numbers are similar, with 722 labs seized in 2009 and 989 meth arrests. He said there have been 569 meth labs seized and 685 meth-related arrested since January.

"We knew we were poised to double our arrests from last year," Spiers said. "That's why we pushed for this law. We just need the rest of the country to follow."



Spiers said the law is making a difference, and he hopes in the long run to see a significant decrease in meth arrests as well as usage.

In July, there were 28 meth arrests, down from 48 in June and 52 in May. There were 21 labs seized in July, 22 in June, and 31 in May.

"In just one month's time, it's already trending a downward spiral," Spiers said.

In 2005, the Oregon Legislature was the first group of lawmakers to pass a statewide anti-meth law, which drew national attention. Oregon's law requiring a prescription for medicine with pseudoephedrine took effect in July 2006.

Oregon Attorney General John Kroger said Friday that in 2004, before his state's anti-meth law was passed, police busted 472 meth labs statewide.

"In 2007, authorities shut down only 22," Kroger said. "The number of seizures fell to 10 in 2009."

Kroger added that his state's property crime rate, which he said has a direct correlation to meth use, declined by 17 percent in 2006, the largest decrease in the nation that year.

Fisher said in Mississippi there were 61 meth arrests in July 2009, and there were 45 last month.

"Within the next couple of years, we're absolutely expecting numbers like Oregon," Fisher said. "I absolutely believe this law will have a significant reduction."

NATIONAL ALLIANCE OF STATE DRUG ENFORCEMENT AGENCIES

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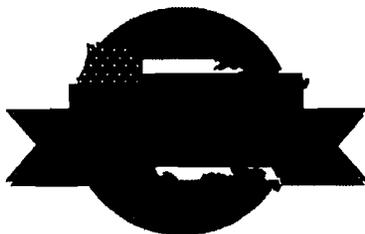
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April 30, 2010

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Mississippi Bureau of Narcotics

Region V Central
Luke Vislay
Missouri State Highway Patrol Division
of Drug & Crime Control

Dear Sir or Madam:

NASDEA strongly supports the scheduling of pseudo-ephedrine by federal law as a schedule III controlled substance.

The National Alliance of State Drug Enforcement Agencies (NASDEA) has been in existence since 1975. Its member agencies are State level drug enforcement agencies from the nation's state police, highway patrol departments, or from each state agency responsible for statewide criminal investigations. The working members of NASDEA come from command level staff. All fifty states are represented within NASDEA.

NASDEA seeks to identify national quality of life issues. One such issue is the need to suppress the spread of methamphetamine as well as reducing the number of dangerous clandestine methamphetamine lab incidents nationally. To that end, NASDEA advocates the federal scheduling of pseudoephedrine (PSE) as a schedule III controlled substance. PSE is the cold and allergy drug from which methamphetamine is formed. The difference between PSE and methamphetamine is one oxygen molecule. By removing that one molecule through a dangerous and toxic chemical process, PSE is converted from a legal medication into a highly addictive illegal drug. Limiting the availability of PSE is directly proportional to limiting the methamphetamine manufacturing process, which, in turn, diminishes the number of hazardous and toxic clandestine labs covertly embedded in our communities.

NASDEA recognizes the steady national increase in the number of clandestine methamphetamine labs from the late 1990's through the mid 2000's. The Federal Combat Methamphetamine Epidemic Act of 2005 resulted in decreasing clandestine lab numbers by nearly 50 percent. These decreases resulted from statutory requirements that took cold and allergy products containing PSE off the shelves and placed them behind the counter. These laws

also mandated that individuals purchasing PSE must be identified and recorded. These statutes were initially effective at reducing meth lab incidents throughout 2006 and 2007, but are now rendered ineffective by organized groups that have learned to manipulate this system by a black market technique known as "smurfing," the practice of purchasing lawful amounts of PSE products at one retail outlet while making additional purchases at others. These purchases, in aggregate, exceed the limit allowed by law.

NASDEA also recognizes that several state governments have implemented electronic PSE monitoring systems that may provide real time information to law enforcement about the purchasers of pseudoephedrine products and block the sale of any amount over the legal limit. The overwhelming numbers of highly organized smurfers have rendered these systems ineffective.

In addition, new more efficient meth lab cooking methods allow for the generation of methamphetamine without requiring the purchase of PSE product amounts in excess of legal purchasing limits or triggering a blocked sale. Moreover, this simplified and accelerated production method continues to severely hamper law enforcement's chance of intervening in the production process before a dangerous clandestine methamphetamine lab is created.

NASDEA has identified a better system. In 2006, Oregon enacted a statute requiring a schedule III controlled substance prescription for all PSE products. As a result, Oregon's clan lab response numbers plummeted 89 percent from 2005 to 2008. Most significantly, Oregon meth lab incidents continue to remain low, 21 in 2008, while they increased in many other states. NASDEA further recognizes the simplicity and effectiveness of the Oregon model and considers it the best method to substantially reduce the number of meth labs that devour millions of dollars in law enforcement and emergency services. These labs are increasingly found in apartment buildings, hotels, rental properties, and near schools. The dangers of fire and explosion, the exposure to hazardous chemicals, and the environmental contamination of clandestine meth labs impact innocent citizens to a greater extent than any other illegal drug.

NASDEA, therefore, strongly encourages the scheduling of PSE as a schedule III controlled substance by federal law. PSE would, therefore, be available by prescription only. This will virtually eliminate, or greatly reduce, the ever increasing hazards to the health and security of the communities served by our member agencies.

NASDEA also pledges to Congress our support, through testimony based on the research and experience of our members, to encourage the scheduling of PSE as a schedule III controlled substance.

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Washington/Baltimore

Thomas H. Carr

**National HIDTA Directors Association**

August 28, 2009

The Honorable Ron Wyden
 United States Senator
 223 Dirksen Senate Office Building
 Washington, D.C 20510-3703

Dear Senator Wyden:

On behalf of the National HIDTA Directors Association (NHDA), I am writing to express our support of the Meth Lab Elimination Act of 2009.

The NHDA is a national, nonprofit, nonpartisan membership organization consisting of 48 Directors and Deputy Directors from the 28 HIDTAs and 4 Southwest Border Partnerships, all of whom share the common goal of reducing drug availability and its harmful effects in the United States. The primary purpose of the NHDA is to address and educate local, state and national leaders as well as the public on issues that affect drug law enforcement.

The HIDTA Program supports and facilitates coordination among federal, local, state and tribal law enforcement to combat the most pressing threat in the region. In many of the HIDTA regions that threat is methamphetamine, which is often manufactured in small methamphetamine laboratories by methamphetamine users who obtain pseudoephedrine, one of the necessary precursor ingredients, from over-the-counter cold medications.

As the Meth Lab elimination Act of 2009 so effectively illustrates, the harmful impacts of methamphetamine are not limited only to the effects the drug has on users, but also include the dangerous effects of the chemicals and wastes involved in making methamphetamine. These labs are highly toxic and extremely dangerous to everyone who comes into contact with them as well as the locations where their waste has been dumped.

Oregon's rescheduling of pseudoephedrine and prescription purchase requirement in 2006 has had a profound impact on the number of labs encountered by Oregon law enforcement and the citizens that they serve. The action taken by the Oregon legislature resulted in an immediate and continued 96% reduction in methamphetamine labs in Oregon. The labs that have been discovered since that time are likely the result of pseudoephedrine purchased in bordering states that have less stringent controls on its sales.

The NHDA believes that a national law modeled after Oregon legislation requiring a physician's prescription to purchase pseudoephedrine would greatly reduce the number of clandestine methamphetamine labs and their inherent dangers throughout the United States. The NHDA strongly supports the Meth Lab Elimination Act of



National HIDTA Directors Association

2009 as it would result in a marked reduction in methamphetamine labs in communities throughout the nation.

The threat and dangers posed by clandestine methamphetamine labs in the United States require immediate and effective action. Thank you for your attention to this critical issue.

Sincerely,

Thomas J. Gorman

President

TG: cp

cc: NHDA Membership



NMPI Advisory Board Position Paper

October 22, 2009

USE OF RETAIL SALES PRECURSOR TRACKING DATABASES VERSUS "PRESCRIPTION ONLY" AS AN EFFECTIVE MEANS TO PREVENT METHAMPHETAMINE LABS

NMPI Advisory Board:

Joseph Rannazzisi (Chairperson)

Drug Enforcement Administration
Deputy Assistant Administrator
Office of Diversion Control

Stuart Nash

Assoc. Deputy Attorney General
Director – United States Department of Justice
Organized Crime Drug Enforcement Task Force

Miguel (Mike) Unzueta

Immigration Customs Enforcement
Special Agent in Charge
San Diego, California

Tom Janovsky

Chief of Forensic Sciences
Drug Enforcement Administration Headquarters

Tommy Farmer

Director of Tennessee Methamphetamine Task Force
Tennessee Bureau of Investigation

Kent Shaw

Deputy Chief
California Bureau of Narcotics Enforcement

Robert (Rob) Bovett

District Attorney
Lincoln County, Oregon

Nicole (Niki) Crawford

Sergeant, Indiana State Police
Methamphetamine Suppression Section

NMPI Advisory Board Mission Statement:

The National Methamphetamine and Pharmaceuticals Initiative (NMPI) Advisory Board, composed of federal, state and local law enforcement and prosecutorial agency representatives from throughout the nation, provides oversight and expertise, ensuring a cohesive strategy of federal, state, and local concerns to further the NMPI mission of reducing and eliminating the occurrence of methamphetamine/chemicals/pharmaceutical drug crimes in the United States.

NATIONAL SITUATION:

The NMPI was founded on the premise that the availability of methamphetamine is directly related to the availability of the essential precursors to manufacture the drug. Those precursors being utilized by illicit methamphetamine lab operators in the United States are pseudoephedrine (PSE) and ephedrine (EPH).

History has shown that methamphetamine manufacturing can be affected immediately if the source of the precursor is found and eliminated. Methamphetamine cannot be made without a chemical precursor. PSE or EPH are currently essential in the modern manufacturing process.

Law enforcement across the United States is faced with evidence that the single precursor source for domestic methamphetamine labs is cold and allergy medicine containing PSE or EPH sold at retail stores and pharmacies. This is true for the large "super labs" (operated by major criminal organizations) producing at least 10 lbs. of methamphetamine per cooking cycle or the smaller "user labs" producing less than 2 ounces of methamphetamine per cook.

Law enforcement also recognizes from evidence found at meth lab sites, investigations, and intelligence, that although restricted, cold and allergy medicine is being illegally obtained through the technique known as "smurfing." This is the practice of purchasing the legal allowable amount of products containing PSE or EPH at one retail outlet but following up with successive purchases at other stores that in total exceed the daily or monthly legal limit. This can be done by one individual or a group of individuals operating together in one city, multiple cities, multiple counties, or multiple states depending on the sophistication of smurfing in any particular region. Significant amounts of the precursors can be obtained this way.

The NMPI Advisory Board believes that the level of "smurfing sophistication" in any area depends on two distinct factors: (1) The size of labs operating in the region which dictates the demand for the precursor, and/or (2) whether organized drug trafficking organizations are operating smurfing "cells" in the area to collect large amounts of the precursor for use in super labs in the same state or out of state.

Of particular concern to law enforcement (and a detriment to their investigations) is the fact that smurfers are increasingly not utilizing their own identification, but using multiple fake identification documents. All of this is done to circumvent the federal Combat Methamphetamine Epidemic Act (or similar state or local laws) which require identification and the signing of purchase logbooks for the purpose of monitoring limits and for law enforcement scrutiny.

The NMPI Advisory Board believes that sufficient evidence now exists to support the conclusion that smurfing is at epidemic proportions across the country with states in various stages of "smurfing sophistication." In some states, such as California and Arizona, smurfing is well organized and has progressed into its own black market industry. Smurfers run in groups along daily routes and sell their acquired cold medicine at the end of the day to a "collector" or "cell head" overseeing multiple groups. The venture is extremely profitable with boxes of cold and allergy medicine being purchased at about \$7.00 a piece and sold for as much as \$80 each. Some states do not have large methamphetamine lab seizure numbers (such as Arizona), yet large smurfing organizations exist and the methamphetamine precursor is being shipped out of state to California and Georgia by Mexican Drug Trafficking Organizations (DTOs) operating methamphetamine super labs.

USE OF TRACKING DATABASES:

Tracking retail sales of products containing PSE or EPH with databases populated with information gathered in manual or electronic log books has been conducted in some states across the country for at least the last two years. States such as Oklahoma, Arkansas, Kentucky, Tennessee, Arizona, California and others are using databases as an investigative tool to thwart smurfing. There are two crucial effectiveness factors to the use of tracking databases: (1) The information gathered by the database must be timely and accurate and (2) the database must be able to "block sales" of purchases over the legal amounts to be effective against the diversion of precursors into illegal activity.

Since PSE/EPH products are sold by a multitude of vendors, all these stores must also be electronically connected in order to be timely and accurate and in order to block sales over the daily and monthly limits. This is crucial in regards to the information gathering end; however on the receiving end, law enforcement must have the resources to investigate the leads generated by the databases in order to even have a chance of identifying smurfers and/or find methamphetamine labs.

The NMPI Advisory Board recognizes that methamphetamine lab incident numbers are now on the rise in the U.S., including in states that have been utilizing tracking databases. The NMPI Advisory Board attributes this to "smurfer sophistication" and the ability to adapt and thwart the use of these databases as an effective law enforcement tool. While it is recognized that the use of tracking and blocking was initially effective, today smurfers have taken away the two database effectiveness factors.

(1) The information gathered, while it may be timely, is no longer always accurate. Smurfers are increasingly utilizing fake identification and "corrupting" databases to the point where prosecutors want eyewitness accounts and investigation (read law enforcement surveillance) of violations before filing charges or authorizing arrests and/or search warrants. (2) Along with the accuracy factor, the use of fake IDs, as well as a multitude of smurfers working together, severely hampers a systems ability to block over the limit sales as smurfers distribute purchases so as not to initiate the "block." In addition, because of the lucrative profits of smurfing, there have been many cases of employee collusion/corruption to thwart blocked sales and/or aid in the use of fake identification documents.

Additional factor affecting database efficiency: Indications are that a significant amount of the rise in current lab incident numbers can be attributed to the now frequent use of the "one pot" method to manufacture methamphetamine by smurfers that are cooking themselves. These are small under two ounce cooks (which make up the majority of methamphetamine labs in the United States) and are conducted in a small cooking vessel (such as a bottle). This is a very quick (although dangerous) production method. The NMPI Advisory Board believes that the proliferation of these small pot or bottle cooks is directly attributable to anti-blocking efforts. This method does not require purchasing precursor containing products in amounts over the legal purchase limit which would trigger a blocked sale. For instance, the purchase of one box of cold or allergy medicine containing PSE would not by itself initiate a block. It can be argued that this technique could only be used once or twice per buyer in a 30 day time frame; however the use of multiple identification documents is still an option along with the sheer number of smurfers that are available to make purchases (which would avoid a blocked sale).

More important in regards to preventing methamphetamine labs, it should be noted that because of the portability and ease of the one pot/bottle method, law enforcement has virtually little chance of stopping the manufacturing of meth before it happens. Many used bottles (where methamphetamine has been cooked) are being found strewn along the side of the road where they have been thrown out a vehicle window after a quick cook following the purchase of the precursor containing product.

PRESCRIPTION ONLY OPTION:

In 2005 the State of Oregon passed legislation restricting the sale of products containing PSE and EPH to only those individuals who were able to present a valid prescription. The legislation went into effect on July 1, 2006. This effectively limited the amount of vendors who were able to sell these products to pharmacies only, where sales are conducted under the watchful eye of a registered pharmacist. Making PSE and EPH "Prescription Only" eliminated smurfing in Oregon as well as their entire methamphetamine lab problem. More importantly, methamphetamine labs have not returned to Oregon while in the rest of the country methamphetamine lab incidents are on the rise. There have been no adverse effects in Oregon because of this action. Shelves are still lined with cold and allergy medicine containing reformulated products for consumers (without PSE or EPH).

The Industry's Consumer Health Products Association (CHPA) claims PSE or EPH products should not be moved to "Prescription Only."

During the legislative process to enact the Oregon law, CHPA listed reasons against "Prescription Only." None of the below claims came true in Oregon.

1. Public outcry

There have been hardly any complaints, and no public outcry. More than three years have passed since the prescription law went into effect, and there has been no push back or effort to undo or weaken the Oregon legislation.

2. Inconvenience to consumers

Consumers will be terribly inconvenienced by having to go to a doctor to get a prescription for pseudoephedrine. The actual experience in Oregon has been that most consumers just purchase over-the-counter alternatives. Those few that still want pseudoephedrine call their physician and get a prescription.

3. Increased work load on pharmacists

Increasing work loads dispensing pseudoephedrine by prescription will occur. This did not happen as most consumers simply purchase over-the-counter alternatives. Oregon pharmacists have stated that they actually prefer the simplicity and ease of the Oregon law returning pseudoephedrine to prescription only status.

4. Increased work load on doctors and emergency rooms

Demands on the healthcare system will dramatically increase as a result of patients going to doctors, particularly emergency rooms, to get pseudoephedrine. This never happened.

5. Medicaid costs

Medicaid costs will skyrocket as the result of Medicaid patients getting prescriptions for pseudoephedrine. The actual statewide Oregon impact has been less than \$8,000 per year.

6. Impact on the poor

There will be an impact on the poor because they cannot afford to see a physician. For all of the reasons discussed in items 1 through 5 above, this did not happen in Oregon. The Oregon Criminal Justice Commission has made special inquiries on this issue. Contact with the directors of key service providers confirmed there has been no negative impact. By way of example, the Director of Northwest Human Services, which runs free clinics and homeless shelters in Salem, Oregon, checked with his clinic and shelter managers. The response: "We haven't heard a peep from either the patients or the providers since the change to pseudoephedrine. There are so many good alternatives that it isn't an issue."

7. Cost of pseudoephedrine

Pseudoephedrine prices will increase dramatically. The opposite occurred in Oregon. Pseudoephedrine is actually less expensive in Oregon due to pharmacies selling generic brands.

Note: Recently, cities in methamphetamine lab plagued Missouri have passed or are considering moving PSE/EPH products to prescription only. California, where super labs and very sophisticated large scale smurfing exists, currently has a bill pending in favor of prescription only.

MAJOR ORGANIZATIONS IN FAVOR OF PRESCRIPTION ONLY:

National Narcotics Officers Association Coalition (NNOAC)
National HIDTA Directors Association
California Attorney General's Office DOJ
California Bureau of Narcotic Enforcement
California Narcotic Officers Association (CNOA)
Kentucky Officers Association
Kentucky State Police
Oregon State Sheriffs Association
Oregon District Attorneys Association
Oregon Association of Chiefs of Police
Oregon Narcotics Enforcement Association
California Meth and Pharmaceuticals Initiative
Southeast Meth and Pharmaceuticals Initiative
Southwest Meth and Pharmaceuticals Initiative

NMPI POSITION:

Based on all of the above:

The NMPI Advisory Board supports "Prescription Only" over the use of tracking databases as the only effective means to prevent illicit methamphetamine labs in the United States ***

- "Prescription Only" is the only proven tool that keeps legitimate consumer access while preventing methamphetamine labs.
- "Prescription Only" addresses "smurfer sophistication" at all levels in all states.
- "Prescription Only" addresses precursor demand no matter what size methamphetamine labs are being supplied, in the same state or another state.

- “Prescription Only” of PSE/EPH, as with any new controlled product, can easily be regulated by new or existing state prescription monitoring programs.
- “Prescription Only” saves taxpayers millions of dollars in investigative costs, lab cleanup costs, incarceration costs, court costs, social services costs, etc.
- “Prescription Only” was the rule for PSE/EPH prior to 1976.

*** The position of the NMPI Advisory Board reflects the personal views of the Board members, and does not purport to represent the official position of the agencies by which they are employed.

The NMPI Advisory Board recognizes that:

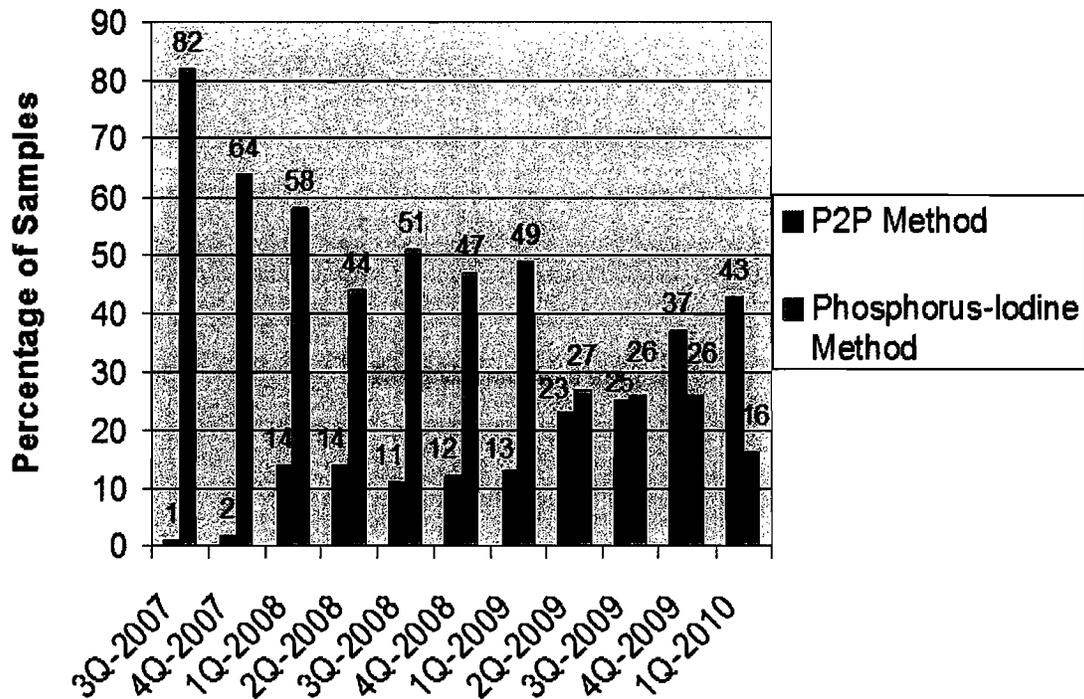
- Law Enforcement agencies do not have the resources to chase smurfers after they have received the precursor. There are too many leads to follow.
- **Law Enforcement does not want to arrest more smurfers or find more methamphetamine labs. Law Enforcement wants to eliminate smurfing and prevent methamphetamine labs.**

Questions or requests for additional information can be directed to:

***Tony Loya
NMPI Director
loyat@nmci.hidta.org***

Updated information from the
DEA Methamphetamine Profiling Program (MPP)

Reference: Page 9 of <http://www.oregondec.org/PowerPoint.pdf>



NOTE: The Phosphorus-Iodine Method requires ephedrine or pseudoephedrine (PSE) and produces potent *d*-methamphetamine. The P2P Method does not require PSE, but produces *dl*-methamphetamine, half as potent as the meth produced with PSE.

DISCLAIMER: Results published for the Methamphetamine Profiling Program (MPP) do not represent the universe of seized methamphetamine. MPP results reflect a specific population of methamphetamine samples analyzed as part of the MPP and are not representative of all methamphetamine samples submitted to the DEA Laboratory System. Furthermore, MPP sampling criteria was revised in the fourth quarter of CY2008. As such, the data is appropriate to use for snapshots or for tracking trends over time, but it is not intended to reflect the methamphetamine market share.

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3. Focus National Efforts on Specific Drug Problems

Different approaches are required to respond adequately to the variety of drug threats our Nation faces. Drug production entities represent specialized industries that demand specific responses. Methamphetamine, in particular, poses a serious threat not only to consumers and those who manufacture it themselves, but also to law enforcement officers who have to make arrests in or near toxic lab sites and clean up those labs. Addressing marijuana production in our national parks requires the technical capacity to locate the fields within large areas as well as air-lift capability to reach the fields.

Actions

A. Counter Domestic Methamphetamine Production [DOJ/DEA, ONDCP/HIDTA]

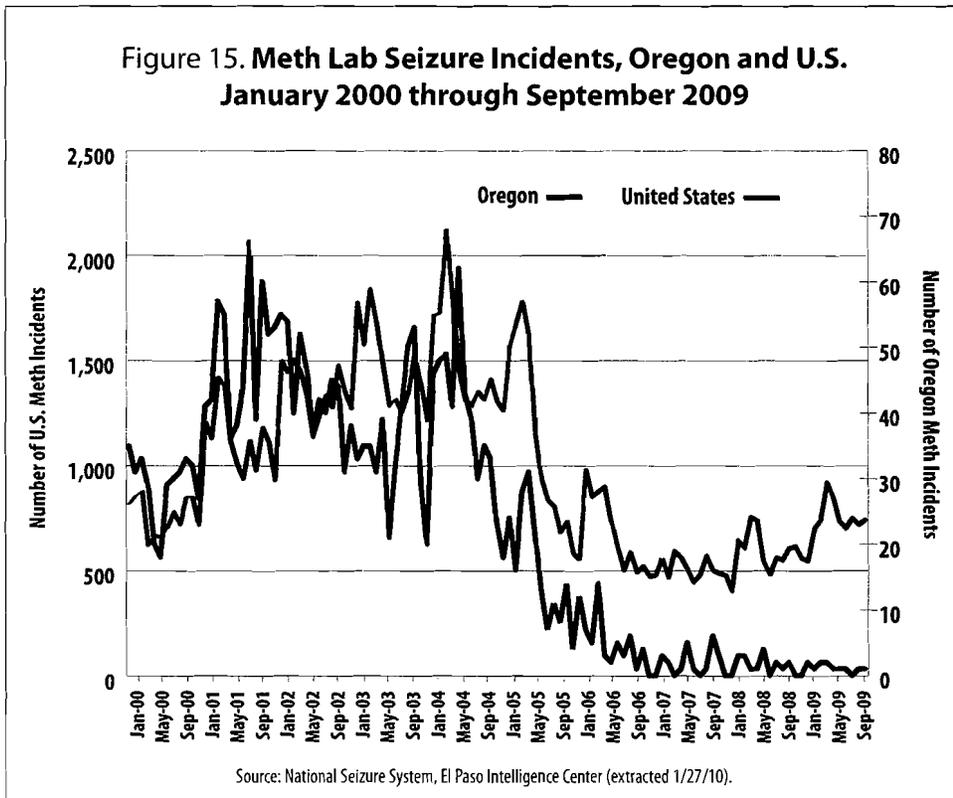
Current Federal and most State laws to control pseudoephedrine, the key ingredient needed to make the most powerful form of methamphetamine, are no longer as effective in addressing the serious threat posed by domestic methamphetamine production as they once were. Drug traffickers and others are now evading these laws and domestically producing methamphetamine in increasing quantities. Teams of pseudoephedrine purchasers, known as "smurfers," go from store-to-store throughout California and many other states, some even using global positioning system (GPS) devices to map out every location. This smurfing is feeding not only small neighborhood user labs, but also large-scale "super labs" run by drug-trafficking organizations in California. Although it is important to consider the public health benefits of convenient public access to cold medicines such as pseudoephedrine, domestic meth labs pose serious health and safety risks to the public, law enforcement, and children forced to live in or near such toxic environments. In an effort to address this growing threat, some states are now using comprehensive electronic pseudoephedrine sales monitoring systems. However, those efforts have been unable to prevent a resurgence of small-scale meth production in several states. Facing a similar threat, the State of Oregon, in 2006, returned pseudoephedrine to a prescription drug, as it was prior to 1976. Three years later, the results are very encouraging (see Update below). In early 2010, Mississippi enacted a similar law. In light of recent trends, DOJ will conduct a review of how to best enhance our Nation's approach to countering domestic meth production, including careful consideration of whether our Federal laws must be updated. In addition, NDIC will continue to monitor and report strategic trends in methamphetamine production and precursor chemical smurfing through production of the annual *National Methamphetamine Threat Assessment*.

Update: Oregon's Approach to Fighting Methamphetamine Labs

In 2008, the Government of Mexico banned pseudoephedrine entirely. This has had a significant positive impact on the control of methamphetamine for both Mexico and the United States. Several countries in Central America have also increased restrictions on sale of pseudoephedrine. However, this has put further pressure to smurf (i.e., make numerous purchases in small amounts) pseudoephedrine and manufacture methamphetamine here in the United States. Short of banning pseudoephedrine in the United States, there is another option that has shown encouraging results.

Effective July 1, 2006, the State of Oregon returned pseudoephedrine to a prescription drug, as it was prior to 1976. There was extensive debate in Oregon as to whether this law would prevent smurfing and

meth labs and whether there would be public outcry or other adverse consequences. More than 3 years later, smurfing within the State of Oregon has been virtually eliminated, meth labs have been nearly eradicated, and local officials report little to no public outcry or other adverse consequences. Oregon's progress is highlighted in the chart below, which compares meth lab seizure trends in Oregon with the national trend. Others have seen this progress and are acting on it. In 2009, New Zealand and a number of local municipalities in Missouri followed Oregon's lead, and early results have also been positive. This approach, as well as others, should be closely examined to enable our Nation to plot a course to effectively address the continuing and growing domestic methamphetamine production threat.



B. Identify Interior Corridors of Drug Movement and Deny Traffickers Use of America's Highways [DOJ/DEA, EPIC, DHS/ICE, CBP, ONDCP/HIDTA]

Drug traffickers employ our Nation's roads and highways to move large amounts of drugs, currency, and weapons, both northbound and southbound. Although many of these drug-trafficking routes are well known, the volume of traffic makes it difficult to interdict this trade. Further, drug traffickers have shown great resourcefulness in building into all types of vehicles hidden compartments that are often difficult and time-consuming for law enforcement officers to locate. To combat this threat, DEA funds training in contraband detection. The HIDTA program, through its Domestic Highway Enforcement initiative, has funded specialized equipment, training, intelligence-sharing activities, and operational

Below is a line-by-line response to recently published information by the Consumer Healthcare Products Association (CHPA), who represent the manufacturers of pseudoephedrine (PSE) products. Information in regular text is from CHPA. Information in **blue text** are responses from Rob Bovett, primary author of the legislation that returned PSE to a prescription drug in Oregon.

The original CHPA document can be found at http://www.chpa-info.org/pressroom/2010PK_PSEetracking.aspx

Pseudoephedrine - Myths & Facts

Under current federal law, the amount of allergy and cold medicines containing pseudoephedrine (PSE) an individual can buy is limited to prevent these medicines from being purchased in large quantities and diverted to manufacture the illicit drug, methamphetamine.

Federal law is being evaded through “smurfing” – many persons buying small lawful amounts of PSE, and then selling that PSE, usually at a substantial profit, to those who manufacture meth. A virtual black market for PSE.

Some states are considering more restrictive legislation to make PSE available by prescription only.

Oregon did so, effective July 1, 2006, and has completely eliminated smurfing as a result.

CHPA supports a more cost effective solution, electronic tracking, that is the most effective solution to reduce methamphetamine without punishing law-abiding consumers.

Electronic tracking is no solution at all. Smurfing evades electronic tracking.

Myth	Fact
<p>Most sales of PSE-containing medicines are for making meth. This is no myth. When confronted with estimates by the California Bureau of Narcotics Enforcement with estimates of 50% diversion, the industry declined to deny or refute such estimates.</p>	<p>Assertions about a high rate of diversion are anecdotal. Actual research from states with tracking capabilities indicate a very small percentage rate of declined sales. That is because <u>smurfing is not declined by electronic tracking.</u> PSE sales in states where there is a known meth lab problem correlate closely with that state’s population just as they do in states without a meth lab problem. Even in states with few meth labs, such as Arizona or Nevada, there is massive amounts of smurfing fueling super labs in Central California.</p>
<p>An “Rx only” law won’t make it more difficult for law-abiding people to get their medicines. This is a red herring. An “Rx only” law will make it more difficult to obtain PSE products. That is precisely the point.</p>	<p>An Rx-only law would require consumers to take time away from home, work, or school to get a prescription for their decongestant. Store shelves are currently lined with alternative products. Most consumers have already made the switch to those alternatives. Others simply call their physician, who in turn can call in a prescription for PSE. Additionally, there will be significantly higher costs to consumers and the healthcare system at large with a prescription mandate for these medicines. That has not proven to be the case in Oregon, after nearly four years of actual experience. In many cases it will take them more time to get there medicine, which will delay treatment. PSE does not cure anything. Many consumers live in medically underserved areas where access to a doctor is limited. PSE does not cure anything.</p>

<p>Tracking sales of OTC medicines electronically won't work That is correct. Electronic tracking does not stop smurfing.</p>	<p>E-tracking has been proven to work in Kentucky and has been adopted by 9 other states. It does not work to stop smurfing, and meth lab incidents are skyrocketing in Kentucky. According to Kentucky authorities, e-tracking is now responsible for identifying only 10 percent of Kentucky meth lab incidents. That is why the Kentucky Narcotics Officers Association now supports returning PSE to a prescription drug, as it was prior to 1976. E-tracking is supported by the National Sheriffs Association because e-tracking systems are an effective way to block illegal PSE sales and help police catch meth cooks. But it doesn't stop smurfing, which is the source of the problem. Importantly, these systems can be linked together to ensure a multi-state solution that prevents meth cooks from simply crossing state borders to evade the law. Multi-state e-tracking is no solution at all. Smurfing is rampant in states with e-tracking. In fact, e-tracking conveniently lets smurfers know when they can lawfully purchase more PSE to divert to meth labs. Electronic tracking facilitates and enhances PSE smurfing and the PSE black market.</p>
<p>Tracking sales of OTC medicines electronically will infringe on legitimate consumers' privacy There is always risks associated with developing a large centralized database with protected health information that can get into the wrong hands. But e-tracking should not be rejected merely for this reason. It should be rejected because it fails to stop smurfing.</p>	<p>Current federal law already requires that this information be collected. E-tracking automates the data so it is available real-time and can block illegal sales. But illegal sales are not the problem. Legal sales diverted through smurfing is the problem. Federal law prohibits purchase information from being accessed, used or shared for any purpose other than to ensure compliance, and the information may only be accessed by law enforcement. The risk is posed by an unnecessary additional database full of protected health information.</p>
<p>It's not important to keep PSE-containing medicines on the market because there are plenty of alternatives. Moving PSE to prescription only does not remove PSE from the market. It returns PSE to its status prior to 1976. That being said, some countries have simply chosen to ban PSE entirely. It does not cure anything.</p>	<p>PSE is clinically shown to reduce congestion due to allergy and colds, and millions of consumers choose PSE over other decongestants. For some people, it is the only oral decongestant that works and is the only decongestant available for 12-hour and 24-hour relief. But the costs associated with keeping PSE over-the-counter are devastating to public safety, our environment, and to drug endangered children. We must tell the pharmaceutical that enough is enough. No more blood money from PSE smurfing diverted to make meth. We must return PSE to a prescription drug, end smurfing, and end the meth epidemic that has destroyed too many lives and families.</p>

For more information, visit
<http://www.oregondec.org/>
April 30, 2010

Below is a response to recently published information by the Consumer Healthcare Products Association (CHPA), who represent the manufacturers of pseudoephedrine (PSE) products. Information in regular text is from CHPA. Information in **blue text** are responses from Rob Bovett, primary author of the legislation that returned PSE to a prescription drug in Oregon.

The original CHPA document can be found at http://www.chpa-info.org/pressroom/2010PK_PSEetracking.aspx

OTC Industry Calls on Congress to Toughen Combat Meth Act

Summary of CHPA Testimony—Linda Suydam, President
April 13, 2010

Electronic PSE Sales Tracking is the Best Solution

- Today, the manufacturers of over-the-counter medicines containing pseudoephedrine (PSE) are calling on Congress to improve the Combat Methamphetamine Epidemic Act by requiring a unified, national electronic tracking system to block illegal sales of PSE-containing medicines.

Electronic tracking is no solution at all. The problem (domestic meth production) is fueled by the smurfing of pseudoephedrine (PSE) - many persons buying small lawful amounts of PSE, and then selling that PSE, usually at a substantial profit, to those who manufacture meth. A virtual black market for PSE. In the Midwest, that PSE is diverted to thousands of small user meth labs. In the West, it is diverted to super labs in Central California. Electronic tracking does not prevent any of that smurfing. In fact, electronic tracking conveniently lets smurfers know when they can lawfully purchase more PSE to divert to meth labs. E-tracking facilitates and enhances PSE smurfing and the PSE black market.

- Ten states already have adopted this solution – passing legislation that requires retailers to use a state-wide electronic tracking system for pseudoephedrine sales.

A tragic distraction from a proven solution to the problem.

- PSE manufacturers are funding the National Precursor Log Exchange, or NPLeX, a robust electronic tracking system for retailers and law enforcement. Through cutting edge technology, NPLeX is the only multi-state system for controlling drug dispensing and offers robust functionality that is simply not available in the prescription drug arena. Key features of NPLeX include:
 - Effective enforcement of PSE sales limits through real-time blocking of illegal sales.
 - Seamless connectivity from all stores in every NPLeX state, working across state lines.
 - Unified logging of purchase records already required by law.
 - Identification of meth cooks for law enforcement.
 - Secure data storage legally accessible only by law enforcement.
 - Faster sales transactions for retailers and consumers.
 - No new burdens on legitimate consumers.
 - No access charges for retailers, pharmacists, or law enforcement.

Electronic tracking is merely the latest effort of the pharmaceutical industry in a tragic 34 year saga to delay and prevent the implementation of effective solutions to end smurfing and the meth epidemic. It's all about the money. Blood money.

Maintaining Access to OTC PSE is Important for Consumers

For many consumers, PSE is the ingredient that works best for them.

PSE is the only oral decongestant available 12-hour and 24-hour sustained-release formulations.

Despite current sales restrictions PSE remains the oral decongestant of choice for 15 million Americans per year.

PSE is a key ingredient in leading cold and allergy medicines like Sudafed, Claritin-D, Zyrtec-D, and a number of other brands and store label medicines.

But the costs associated with keeping PSE over-the-counter are devastating to public safety, our environment, and to drug endangered children. We must tell the pharmaceutical that enough is enough. No more blood money from PSE smurfing diverted to make meth. We must return PSE to a prescription drug, end smurfing, and end the meth epidemic that has destroyed too many lives and families.

Oregon's Meth Lab Decline is Not Unique

The fact is that the meth lab problem has dramatically abated in many States in the West – with Oregon being the only state to impose a prescription mandate. (Percentage declines since peak: Arizona, 97%; California, 93%; Idaho, 94%; Nevada, 97%; Oregon, 98%; Utah, 99%; Washington, 97%).

This is misleading in two significant ways:

1. It relies upon 2009 data from the El Paso Intelligence Center (EPIC). Timely reporting to EPIC varies from state to state. Some states still have not completed their 2009 reporting to EPIC. Take Washington and Oregon, for example. Oregon has reported 10 total meth lab incidents to EPIC for 2009. That number is up-to-date and correct. However, Washington is still completing its reporting. It's actual number for 2009 was not 39, as used and misrepresented by CHPA in this data. The actual Washington number for 2009 was 186, representing an increase from the prior year. The industry has been made aware of this, yet they continue to use this incomplete data and make these misrepresentations.

2. More important, it completely misses the point. Massive pseudoephedrine (PSE) smurfing in the Midwest is feeding thousands of small user meth labs. Massive super smurfing in the West is feeding super labs in Central California. For example, Arizona and Nevada have very few meth labs. But super smurfing in those states helps fuel super labs in Central California, which produce tons of meth. Those states are therefore still a major part of the problem. Oregon is not. Oregon eliminated smurfing by returning PSE to a prescription drug, as it was prior to 1976.

For more information, visit
<http://www.oregondec.org/>
April 30, 2010

Rob Bovett's response to Consumer Healthcare Products Association (CHPA) ad and flyer in Kentucky. Each statement in the CHPA ad and flyer is shown in red font. My response is in blue font.

74 percent of Kentuckians agree that requiring prescriptions for common cold and allergy medications is an unnecessary burden for law-abiding citizens.

Similar to the CHPA poll results from other states. But they fail to provide the poll questions. Because the questions are misleading. As my father used to say: "Garbage in, garbage out."

Kentucky already has a state-wide electronic tracking system in place to enforce sales limits on pseudoephedrine - a key ingredient in many nonprescription cold and allergy medicines that can be used in the production of methamphetamine.

A nice tool. But purely reactive, and does not solve the problem.

Since its implementation in July 2008, this system has helped pharmacists stop the illegal sale of PSE and law enforcement track down meth cooks and their labs.

Old news. Smurfing now completely evades those controls.

The system blocks about 5,000 sales each month (or about 4.4 percent of the total). Without NPLEEx, in 2009 alone, more than 100,000 grams of PSE would have been sold illegally.

Yes, but a lot more is now evading NPLEEx due to smurfing, which is fueling Kentucky's tragic resurgence of meth labs.

A number of Kentucky law enforcement agencies report that e-tracking leads to the majority of their meth lab busts.

Not any more. Due to smurfing, that percentage is now down to 10 percent.

A prescription requirement for these cold and allergy medicines is bad public policy that will hurt ordinary citizens.

With almost four years of actual experience in Oregon, that is simply not the case. Oregon has eliminated smurfing, nearly eradicated meth labs, driven drug arrests down by 30% (all due to meth), and experienced our nation's largest drop in crime rates. There has been no public outcry to undo the prescription requirement.

Increased Healthcare Costs: Restricting access to PSE cold and allergy medicines will increase the costs of an already overstretched healthcare system. Under a prescription-only mandate, if only half of those Kentuckians who currently rely on these medicines were forced to go to the doctor for a prescription, the cost to the healthcare system in doctor visits alone would be over \$20 million.

With almost four years of actual experience in Oregon, that is simply not the case. Most Oregonians simply purchase OTC products, which line the shelves in Oregon. The total impact on the state medicaid system has been less than \$8,000 per year.

Reduced Tax Revenues: In Kentucky, over-the-counter (OTC) medications are subject to state sales tax while prescription medications are not. Restricting access to PSE products will decrease Kentucky's state sales tax revenues by well over half of a million dollars in the first year alone.

Blood money. By comparison, what is the actual cost to Kentucky taxpayers and citizens for responding to meth labs? Millions of dollars each year in law enforcement services, cleanup, incarceration, and more. That doesn't even take into account the tragedy bestowed on Kentucky's drug endangered children.

Decreased Access to Healthcare: Kentucky is already experiencing deep shortages in primary care physicians and nurses. Adopting a prescription-only policy for cold and allergy medicines containing PSE will flood Kentucky's primary care physicians with an estimated 17,000 additional physician office visits annually.

With almost four years of actual experience in Oregon, that is simply not the case. But don't take my word for it - here is what Oregon's leading physician and pharmacist associations have said:

* <http://www.oregondec.org/CSPSC/008a-ACEP.pdf>

* <http://www.oregondec.org/OMA.pdf>

* <http://www.oregondec.org/US/OSPA.pdf>

The Truth About Lab Numbers: The Kentucky State Police count every "shake and bake" bottle found as a "lab". This means that a two-liter bottle used to make meth constitutes a lab under current KSP reporting guidelines.

Because they are meth labs. They catch fire, explode, poison the environment, and poison drug endangered children.

The truth is that the numbers are also up because MethCheck has become an invaluable tool for law enforcement. Narcotics officers across the Commonwealth use the e-log system to develop leads, setup informants, and take down anyone from the small-time tweaker, to the multi-national methamphetamine ring.

Not any more. Due to smurfing, the percentage of Kentucky meth labs identified by MethCheck is now down to 10 percent of the total. Smurfing has largely nullified the positive impact of MethCheck.

Under a prescription mandate, purchases could no longer be blocked at the point-of-sale and monitoring would be limited due to HIPAA privacy laws.

They won't need to be blocked. The patient will have a prescription.

The criminals would once again become "ghosts".

After almost four years of actual experience in Oregon, there has not been a single case of prescription smurfing. Oregon's remaining handful of meth labs each year are traced to smurfing in neighboring states.

Rx-only would be a step back in the fight against meth.

Returning pseudoephedrine to prescription only, as it was prior to 1976, is not only a step forward, it is a proven and effective solution to end smurfing. In 1976, we let a Genie out of a bottle. We moved pseudoephedrine from a prescription drug to over-the-counter. Ever since, we've been putting band-aids on the situation, while meth labs blow up and catch fire, lives and families are destroyed, neighborhoods devastated, our environment poisoned and, most tragically, drug endangered children suffer, or worse. Enough is enough. We must tell the pharmaceutical industry no more band-aids, and put the Genie back in the bottle.

STOP METH. NOT MEDS.

STOP PHARMA. STOP METH LABS.

For more information, see www.oregondec.org



Lincoln County District Attorney

225 West Olive Street, Room 100, Newport, Oregon 97365
541-265-4145, FAX 541-265-3461, www.co.lincoln.or.us/da/

Rob Bovett
District Attorney

Marcia Buckley
Chief Deputy

MEMORANDUM

TO: California State Assembly
Committee on Public Safety

FROM: Rob Bovett, Chair, Oregon Meth Task Force

DATE: June 30, 2009

SUBJECT: CHPA advertisement and petition opposing SB 484

As you may already be aware, following passage of Senate Bill 484 in the Senate, the Consumer Healthcare Products Association (CHPA), the lobbying organization that represents the pharmaceutical manufacturers, began an extensive advertising campaign in California against the bill.

An example of the ads that ran on the internet is shown to the right (pulled from CNN). Another example is on the reverse of this memo, from the header of the Sacramento Bee's story regarding SB 484.

The ads are active and animated, and call on the viewer to click on the button and add the viewer's name to a letter to the California legislature in opposition of the legislation.

However, there are two problems with the ad, which I will characterize as misleading at best (in an effort to remain polite, I will avoid outright using the "L" word):

(1) Medicaid costs wont be "run up." See the attached letter from the Oregon Department of Human Services; and

(2) Senate Bill 484 applies only to allergy medicines that contain pseudo/ephedrine as an ingredient. It does not apply to ALL allergy medicines as falsely stated in the ad. What is most troubling about this false statement is that CHPA represents the manufacturers of those allergy medicines. They know better.

**SACRAMENTO
DUMB IDEA
#723:**
Run up
Medicaid costs
by making
ALL allergy
medicines
R only.

**STOP THEM,
AGAIN.**

\$

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Consumer Healthcare
Products Association

SACRAMENTO Run up Medicaid costs by making
DUMB IDEA #723: ALL allergy medicines **Rx** only.

STOP THEM,
AGAIN.



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Tuesday, June 16, 2009

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California may require prescriptions for allergy pills amid meth lab concerns

By Marissa Lang
mlang@sacbee.com

ShareThis

Published: Tuesday, Jun. 16, 2009 - 12:00 am | Page 1A
Last Modified: Tuesday, Jun. 16, 2009 - 8:02 am

You've been getting your Sudafed, Zyrtec-D and

MORE INFORMATION

▲ California legislation to battle meth

What would Senate Bill 484 do? In an attempt to reduce the number of methamphetamine labs in California, the legislation would make pseudoephedrine-based and ephedrine-based drugs available only to patients who first obtain a doctor's prescription.

Opponents include:

California Public Defenders Association, Consumer Healthcare Products Association and the Association





Oregon

Theodore R. Kulongoski, Governor

Department of Human Services

Addictions and Mental Health Division

500 Summer Street NE E86

Salem, OR 97301-1118

Voice 503-945-5763

Fax 503-378-8467

June 15, 2009

2009 JUN 17 PM 1:53

Rob Bovett
225 West Olive St., Ste 110
Newport, OR 97365

ENTERED _____

Dear Mr. Bovett:

In July of 2006, Oregon law required an individual possess a valid prescription to purchase pseudoephedrine at a pharmacy. Since then, methamphetamine labs have almost been eliminated in Oregon. In 2006 there were 63 documented clandestine methamphetamine labs reported in Oregon. Two years later the number of labs decreased to 18.

Per your request, we contacted our state Medicaid program to determine the financial impact of requiring a valid prescription for the purchase of pseudoephedrine. There has been a very small impact to Oregon's Medicaid program. Requiring a prescription for the purchase of pseudoephedrine has resulted in an annual increase of \$7,780 to the state's Medicaid program based on the cost of the medication.

The increase in the cost of prescriptions to the state's Medicaid program is far outweighed by the decrease in costs associated with public safety, emergency room visits, and social services.

Sincerely,

Richard L. Harris
Interim Assistant Director

TH/pt

If you need this letter in alternate format, please call 503-945-5763 (Voice) or 800-375-2863 (TTY)

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Lincoln County District Attorney

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Rob Bovett
District Attorney

Marcia Buckley
Chief Deputy

MEMORANDUM

TO: Kent Shaw, California BNE

FROM: Rob Bovett, ONEA

DATE: June 8, 2009

SUBJECT: PSE Prices – Oregon and California

This memo is to document our conversation the other day regarding yet another of the items in the false parade of horrors presented by the industry in opposition to California Senate Bill 484, which would move pseudoephedrine products to prescription-only. As you know, this issue was again raised last week by California State Senator Samuel Aanestad (R- Grass Valley) during the Senate floor debate on SB 484. During that debate, Senator Aanestad repeatedly showed the Senate his own nasal decongestant spray, which he pulled from his pocket, and asserted that its cost would go from \$4 to \$40 or more if SB 484 is passed.¹

At my request, back in October of 2008, our Pharmacy Board staff surveyed some pharmacists in Oregon to answer the question regarding pseudoephedrine product prices in Oregon before and after the switch to prescription-only (I made that request due to the industry raising that same red herring in yet another state). Here is the result:

For Sudafed® (30mg, #60), which typically sold for around \$5.99 per box in Oregon before moving to prescription-only, after moving pseudoephedrine to prescription-only, here were the prices at some of our most frequented pharmacies in Oregon: Bi-Mart, \$5.99; Costco, \$7.11; Fred Meyer, \$9.99; Safeway, \$12.49; Walgreens, \$11.99; and Wal-Mart, \$6.46.

That being said, what I find equally fascinating is a comparison of California and Oregon pseudoephedrine product pricing. As you noted, comparing prices between California (OTC) and Oregon (prescription-only) reveals that pseudoephedrine products appear to be less expensive in Oregon. For example, Oregon pharmacies are selling 100 tablet bottles of pseudoephedrine for the same price as a 48 tablet box of pseudoephedrine in California (52% more product for the same price). Go figure.

¹ As an ironic aside, pseudoephedrine was not approved by the FDA in 1976 for use in OTC nasal decongestant sprays. 41 Fed Reg 38,312 (1976), codified at 21 CFR Part 341. That remains so today. 21 CFR § 341.20(b)(2008). Therefore, it appears that the product actually flashed repeatedly by Senator Aanestad to prove his point in opposition to SB 484 (likely a phenylephrine or oxymetazoline product) was actually proving the very point that had just made by Senator Rod Wright in support of SB 484. So it goes.

METH EPIDEMIC SOLUTIONS

*Never doubt that a small group of
thoughtful, committed citizens can change the world.
Indeed, it's the only thing that ever has.*

—Margaret Mead

ROB BOVETT*

I. INTRODUCTION

An epidemic of methamphetamine abuse and addiction has swept across our nation and the world.¹ Its wake has destroyed families, devastated communities, caused property crimes to surge, and caused severe neglect of children. Tragically, the meth epidemic is unnecessary.

In 1976, the key ingredient necessary to make the most potent form of meth was approved by the federal government for over-the-counter sale. Over the course of the next thirty years, in eerie ten-year segments, the government repeatedly bowed to pressure from the pharmaceutical industry, choosing corporate profits over public health and safety. However, recent efforts have begun to turn the tide and bring the meth epidemic to an end.² There is still much work to be done, but we now have an opportunity—a golden opportunity—to address the underlying issue of addiction.

*Rob Bovett, J.D., Northwestern School of Law of Lewis & Clark College (1990); B.A., English and Political Science at the University of La Verne (1987). Mr. Bovett is legal counsel for the Oregon Narcotics Enforcement Association and the Lincoln Interagency Narcotics Team, and is co-founder and President of the Oregon Alliance for Drug Endangered Children. Mr. Bovett is the author of Oregon's meth lab chemical control laws, and helped author the international precursor controls contained in the federal Combat Methamphetamine Epidemic Act enacted by Congress in 2006. This article is dedicated to Oklahoma State Trooper Nikky Joe Green.

1. *See generally* REP. OF THE INT'L NARCOTICS CONTROL BD. FOR 2005 (2006) [hereinafter 2005 INT'L NARCOTICS REPORT]. In addition to the United States, many other areas of the world are suffering the ill effects of a meth epidemic, including, but not limited to, Southeast Asia, East Asia, Southern Africa, parts of Eastern Europe, Canada, New Zealand, and Australia. *See generally id.*

2. *See infra* note 3. This article will focus on only one part of the solution, namely control of the key ingredient necessary to make *d*-methamphetamine. The full solution requires strong support for science-based prevention, enforcement, and treatment.

A. TYPES OF METHAMPHETAMINE

There are two major kinds of methamphetamine: Dextrorotatory methamphetamine (“*d*-meth”) and levorotatory methamphetamine (“*l*-meth”).³ These two meth molecules are essentially mirror images of each other.⁴ The *d*-meth variety is a strong central nervous system stimulant with powerful addictive properties. The *l*-meth variety is a topical nasal decongestant used as the active ingredient in a popular over-the-counter inhaler.⁵

There is also a third variety of methamphetamine, racemic meth (“*dl*-meth”), which is essentially a fifty-fifty mixture of *d*-meth and *l*-meth. As a result, *dl*-meth is a much less potent stimulant. This is the type of meth that was typically manufactured (and on the streets of America) throughout the 1960s and 1970s.⁶

B. EPHEDRINE AND PSEUDOEPHEDRINE

There are two primary methods for illicitly manufacturing *d*-meth, and many variations of each method. On the street, they are commonly referred to as the “Red P”⁷ and “Nazi”⁸ methods. Both require the use of ephedrine or pseudoephedrine as the essential precursor.⁹

3. NAT’L DRUG INTELLIGENCE CTR., NAT’L DRUG THREAT ASSESSMENT 14 (2003); *see* PHYSICIAN’S DESK REFERENCE 2482, 2678 (2006) (providing for the terms “desoxyn,” i.e., *d*-meth and “levmetamfetamine,” i.e., *l*-meth, respectively). The two isomers of meth are named *d*- and *l*- by the direction in which they rotate a plane of polarized light. An isomer that rotates the light clockwise carries the *d*- prefix, and an isomer that rotates the light counterclockwise carries an *l*- prefix. A better method of labeling optical isomers, for reasons that go beyond the scope of this article, is (+) and (–), rather than *d*- and *l*-, respectively. There is also a better method of naming isomers based on their molecular structure. However, for reasons of historical usage and ease, throughout this article, I will use the *d*- and *l*-nomenclature.

4. For a further explanation in the context of pharmaceuticals, *see* Michael Strong, *FDA Policy and Regulation of Stereoisomers: Paradigm Shift and the Future of Safer, More Effective Drugs*, 54 FOOD & DRUG L.J. 463 (1999). One way to think of these two stereoisomers of meth is to imagine the meth molecule as a human hand. Your right hand and your left hand both have four fingers, a thumb, and a palm. But they are not the same. They are mirror images of each other. The two mirror-image meth molecules have different pharmacological effects on the human body. Although fascinating to the author, a full exploration of stereoisomerism and chirality in organic chemistry is well beyond the scope of this article.

5. Rules & Regulations Dep’t of Health & Human Services, 61 Fed. Reg. 9,570 (Mar. 8, 1996) (codified at 21 C.F.R. pt. 321). Vicks® Vapor Inhaler uses this active ingredient. For a time, the active ingredient was labeled “*l*-desoxyephedrine,” which is simply another name for *l*-meth. *Id.* The FDA later changed the labeling requirement to “levmetamfetamine.” Rules & Regulations Dep’t of Health & Human Services, 63 Fed. Reg. 40,647 (July 30, 1998) (codified at 21 C.F.R. pts. 310 and 321).

6. The various processes for illicitly manufacturing racemic meth typically involve a synthesis of phenylacetone and methylamine. Another name for phenylacetone is 1-phenyl-2-propanone, or “P2P,” which gives these types of meth labs their street name.

7. This process involves reducing ephedrine or pseudoephedrine to *d*-meth using phosphorus and hydriodic acid. Although there are many variations, the most commonly used reducing agents (or “reagents”) are iodine and red phosphorus. The use of red phosphorus gives this method its street name “Red P.” Among chemists, this process is more commonly referred to as “Ogata

Small amounts of ephedrine and trace amounts of pseudoephedrine are found in the plant *ephedra sinica*, also known as the Chinese herb *ma huang*.¹⁰ However, nearly all of the world's supply of ephedrine and pseudoephedrine is mass produced in nine factories in three countries.¹¹

reduction," named for the original variation of the process developed in 1919 by the Japanese organic chemist Akira Ogata. This method is easily scalable, so it is used in small toxic labs, as well as the "superlabs" of drug trafficking organizations.

8. This process involves reducing ephedrine or pseudoephedrine to *d*-meth using anhydrous ammonia and lithium or sodium metal. The street name "Nazi" meth lab is believed to have derived from a German patent issued for a variation of this reduction methodology in 1936. See German Patent No. 639,126 (I.G. Farben) (filed May 16, 1935) (issued Nov. 28, 1936). The header of the patent features the seal and swastika used on all German patents during the time of Hitler's Deutsches Reich, thus giving the method its street name. Among chemists, this process is more commonly referred to as "Birch reduction," named for a variation of this reduction process developed by the Australian organic chemist Arthur J. Birch. This method is not easily scalable, so it is typically only used in small toxic labs.

9. The difference between the methamphetamine molecule (C₁₀H₁₅N) and the ephedrine or pseudoephedrine molecule (C₁₀H₁₅NO) is a single oxygen atom. Therefore, as described in notes 7 and 8, *supra*, the two primary methods for illicitly manufacturing meth essentially involve removing the oxygen atom from ephedrine or pseudoephedrine. Another decongestant, phenylpropanolamine (PPA), is very similar in molecular structure to ephedrine and pseudoephedrine. However, PPA has one less methyl group (a carbon atom and three hydrogen atoms). Thus, reducing PPA in a "Red P" or "Nazi" meth lab results in amphetamine, a much weaker stimulant drug than methamphetamine (amphetamine is methamphetamine minus a methyl group). After the disclosure of data questioning the safety of PPA, it was voluntarily removed from the market by the pharmaceutical industry following the issuance of an FDA notice in 2001, and is therefore seldom seen any longer in clandestine drug labs. Phenylpropanolamine: Proposal to Withdraw Approval of New Drug Applications and Abbreviated Drug Applications, 66 Fed. Reg. 42,665 (proposed Aug. 14, 2001).

10. Unlike methamphetamine, which has one chiral center, thus providing the two optical isomers *d*-meth and *l*-meth (i.e., one set of mirror image molecules), the ephedrine molecule has two chiral centers, which provides four optical isomers (i.e., two sets of mirror image molecules). They are *d*-ephedrine, *l*-ephedrine, *d*-pseudoephedrine, and *l*-pseudoephedrine. The naturally occurring varieties in *ephedra sinica* are *l*-ephedrine and *d*-pseudoephedrine, both of which reduce to *d*-meth. The other two varieties, *d*-ephedrine and *l*-pseudoephedrine, reduce to *l*-meth, a topical nasal decongestant. See Strong, *supra* note 4, at 463. Interestingly, at least one pharmaceutical company pursued *l*-pseudoephedrine as a possible substitute decongestant for *d*-pseudoephedrine, not just because it does not reduce to *d*-meth, but for its apparent safer qualities. See (-)-Pseudoephedrine as a Sympathomimetic Drug, U.S. Patent No. 6,495,529 (Booth, et al.) (Warner-Lambert, aka Pfizer) (filed Apr. 16, 2001) (issued Dec. 17, 2002). In addition to abuse and use to make *d*-meth, the patent itself noted that *d*-pseudoephedrine has "undesirable side effects, including central nervous system stimulation, lightheadedness, nervousness, anxiety, paranoia, heart arrhythmia, atrial fibrillations and premature ventricular contractions." 529 Patent col.1 l.57-60 (citing 95 AM. HOSP. FORMULATORY SERV. 847-48). See also Carlos Cantu et al., *Stroke Associated with Sympathomimetics Contained in Over-the-Counter Cough and Cold Drugs*, 34 STROKE: J. AM. HEART ASS'N 1667 (2003). Unfortunately, *l*-pseudoephedrine appears not to have been further pursued.

11. Steve Suo, *Unnecessary Epidemic*, THE OREGONIAN, Oct. 3, 2004, at A1. The ephedrine and pseudoephedrine producing nations are India, China, and Germany, although India and China are the primary sources of the diverted ephedrine and pseudoephedrine feeding the meth "super labs" of the drug cartels. Although not currently a significant source of ephedrine and pseudoephedrine for mass production of meth, *ephedra sinica* is not internationally regulated, and thus has the potential to become a significant precursor for meth if authorities in China should elect to no longer closely monitor the export of bulk *ephedra*. See INT'L NARCOTICS CONTROL BD., 2005 ANNUAL REPORT ON PRECURSORS & CHEMICALS FREQUENTLY USED IN THE ILLICIT

II. THE EVOLUTION OF METH EPIDEMIC SOLUTIONS

Over the course of the past thirty years, there have been a number of attempts to stop the spread of the meth epidemic by controlling the key ingredients ephedrine and pseudoephedrine. For most of those years, the efforts were stymied or watered down and rendered ineffective. However, in recent years, there have been strong actions taken at state, national, and international levels. The results are dramatic, and have provided a window of opportunity for taking the next steps to deal with the underlying issue of addiction.

A. 1976 TO 1985: ROOTS OF THE EPIDEMIC

On September 9, 1976, the Food and Drug Administration (FDA) effectively approved ephedrine and pseudoephedrine for over-the-counter sale as decongestants.¹² This action was the culmination of a lengthy process initiated by Congress in 1962 to determine what pharmaceutical products should be sold over-the-counter.¹³ The FDA ultimately approved eight decongestants as safe and effective for over-the-counter sale, including ephedrine and pseudoephedrine.¹⁴

MANUFACTURE OF NARCOTIC DRUGS & PSYCHOTROPIC SUBSTANCES 3, 71 (2006), available at http://www.incb.org/incb/annual_report.html [hereinafter INT'L NARCOTICS CONTROL BD., PRECURSORS & CHEMS.].

12. Establishment of a Monograph for OTC Cold, Cough, Allergy, Bronchodilator, and Asthmatic Products, 41 Fed. Reg. 38,312 (Sept. 9, 1976) (codified at 21 C.F.R. pt. 341).

A nasal decongestant is an agent which reduces nasal congestion in patients with acute or chronic rhinitis. These agents may be administered topically as drops, sprays or inhaled vapors or orally in a solid or liquid dosage form. The drug effect is brought about by constriction of dilated blood vessels (vasoconstriction) within the nasal mucosa, thus temporarily reducing the swelling associated with inflammation of the mucous membrane lining the nasal passage.

Id. (citing I.R. Innes & M.N. Nickerson, *Drugs Acting on the Postganglionic Adrenergic Nerve Endings and Structures Innervated by Them (Sympathomimetic Drugs)*, in THE PHARMACOLOGICAL BASIS OF THERAPEUTICS 507 (Goodman & Gilman eds., 4th ed. 1970)).

In general, side effects associated with recommended oral doses of OTC nasal decongestants are minimal, but at higher doses may include nervousness, dizziness, and sleeplessness. Individuals with disease conditions which can be aggravated by sympathomimetic drug action, e.g., high blood pressure, heart disease, diabetes mellitus and hyperthyroidism, should not use decongestants orally except under the advice and supervision of a physician.

Establishment of a Monograph, 41 Fed. Reg. at 38,397.

13. For a thorough explanation of the history of this process, see Judge Sirica's decision in *Cutler v. Kennedy*, 475 F. Supp. 838 (D.D.C. 1979).

14. As relevant to this article, those included ephedrine (topical only), pseudoephedrine (oral), phenylephrine, and phenylpropanolamine (oral). Establishment of a Monograph, 41 Fed. Reg. at 38,397. The panel rejected ephedrine (oral), phenylpropanolamine (topical), and *l*-methamphetamine (inhalant) because of insufficient data to support a finding of efficacy and safety. *Id.*

B. 1986 TO 1995: MISSED OPPORTUNITIES

By 1986, concern over the use of ephedrine and pseudoephedrine to manufacture meth made its way to Congress. That year, Congress was preparing to pass an omnibus anti-drug abuse bill. A number of versions were developed in the Senate and House of Representatives. The House version included provisions relating to the diversion of precursor chemicals, including ephedrine and pseudoephedrine, but those provisions merely directed the Attorney General to study the issue and report back to Congress.¹⁵ However, on September 23, 1986, Senator Bob Dole introduced a new omnibus bill at the request of the Reagan Administration.¹⁶ The new bill was a bipartisan effort to combine the “very best” provisions offered in earlier partisan versions, plus additional improvements and provisions worked out through bipartisan efforts.¹⁷

Part six of the new bill contained the “Chemical Diversion and Trafficking Act of 1986.”¹⁸ That part of the bill required all manufacturers, distributors, importers, and exporters to maintain records concerning the distribution, sale, importation, and exportation of certain listed chemicals within quantity thresholds set by the Attorney General.¹⁹ The listed chemicals included ephedrine and pseudoephedrine.²⁰ The record-keeping provisions required logging the name, address, and identification for each individual or entity receiving the listed chemical.²¹

Part six also required all importers and exporters of the listed precursors to obtain a permit from the Drug Enforcement Administration (DEA).²² It also directed the United States Attorney General to maintain an active domestic and international program to prevent the diversion of these listed chemicals, including the development of cooperative efforts with foreign drug control authorities.²³

15. H.R. 5484, 98th Cong. § 623 (as introduced by House, Sept. 8, 1986).

16. Drug Enforcement Act of 1986, S. 2850, 98th Cong. (1986), 132 Cong. Rec. 25,633 (1986).

17. 132 Cong. Rec. 25,633 (1986) (statement of Sen. Dole).

18. Drug Enforcement Act of 1986, S. 2850, 98th Cong. (1986) §§ 1561-64, 132 Cong. Rec. 25,650 (1986).

19. Drug Enforcement Act of 1986, S. 2850, 98th Cong. (1986) § 1562, 132 Cong. Rec. 25,650.

20. Drug Enforcement Act of 1986, S. 2850, 98th Cong. (1986) § 1562(d)(1) (F), (G), 132 Cong. Rec. 25,651.

21. Drug Enforcement Act of 1986, S. 2850, 98th Cong. (1986) § 1562(a)(1), 132 Cong. Rec. 25,650.

22. Drug Enforcement Act of 1986, S. 2850, 98th Cong. (1986) § 1562(b), 132 Cong. Rec. 25,651.

23. Drug Enforcement Act of 1986, S. 2850, 98th Cong. (1986) § 1564, 132 Cong. Rec. 25,652.

Part six of Senator Dole's omnibus bill was nothing short of revolutionary.²⁴ Any doubt about the intent of these new provisions was answered in the summary provided by the sponsors²⁵:

This section establishes a new system of control over the sales of certain precursor and essential chemicals in the manufacture of illegal drugs through new record keeping, reporting, and identification requirements designed to keep these chemicals out of the hands of illegal drug manufacturers. The House package only provides for a study to determine the need for legislation or regulation to control the diversion of legitimate precursor and essential chemicals to the illegal manufacture of drugs. The Senate Democrat package does not include any like provision.²⁶

Although caught by surprise, the pharmaceutical industry lobbyists immediately realized the implications of this new proposal.²⁷ They quickly mobilized and were successful in defeating this first serious attempt to strongly control ephedrine and pseudoephedrine.²⁸ The new provisions did not make it into the final bill. Instead, the enacted legislation settled for the weaker provisions directing the United States Attorney General to study the issue and report back to Congress.²⁹

The pharmaceutical industry then successfully applied pressure on the Administration to back down when it reported back to Congress.³⁰ In April of 1987, the United States Attorney General Edwin Meese dutifully reported back to Congress, as directed in the 1986 legislation.³¹ The report

24. Interview by PBS Frontline with Gene Haislip, Former Head of DEA Diversion Control (Sept. 20, 2005), available at <http://www.pbs.org/wgbh/pages/frontline/meth/interviews/haislip.html>. Mr. Haislip stated,

[w]e had extremely good reception on the part of this proposal, both from the president, the Justice Department and the Congress. However, it did soon surface that legitimate industry had concerns, and I suppose most especially the proprietary associations that represent the manufacturers of the pharmaceutical preparations with ephedrine and pseudoephedrine in them.

Id.

25. "Final Summary—Drug Control Act of 1986," 132 Cong. Rec. 25,671 (1986).

26. *Id.*; 132 Cong. Rec. 25,673.

27. Interview by PBS Frontline with Allan Rexinger, former pharmaceutical lobbyist (Nov. 5, 2005), available at <http://www.pbs.org/wgbh/pages/frontline/meth/interviews/rexinger.html>. "I found out about it by reading in the Congressional Record. It was a total surprise." *Id.*

28. Steve Suo, *Lobbyists and Loopholes*, THE OREGONIAN, Oct. 4, 2004, at A1.

29. Anti-Drug Abuse Act of 1986, Pub. L. No. 99-570, 100 Stat. 3207 (1986). The weaker study and report back to Congress provisions were contained in Title I, Subtitle R, § 1901 of the Act. *Id.*

30. Suo, *Lobbyists and Loopholes*, *supra* note 28, at A1.

31. "A communication from the Attorney General of the U.S. transmitting, pursuant to law, and report on a legislative proposal relative to methods to control diversion of legitimate and

proposed the same regulatory scheme from Senator Dole's bill, but with one major difference: The new proposal exempted any regulated chemical contained in a legal pharmaceutical product.

Nevertheless, a variety of bills were introduced in 1987 to strongly regulate ephedrine and pseudoephedrine.³² The bills ranged from the strong controls contained in Senator Dole's original 1986 bill, to variations of those controls.³³ On October 15, 1987, a hearing was held by the United States House Judiciary Committee to consider the Attorney General's report and the various bills.³⁴ Unfortunately, the end result was the passage of a bill in 1988 that included the exception for legal pharmaceutical products.³⁵

On an international level, world concern over the development and spread of illicit synthetic drugs manufactured through diversion of legitimate chemicals resulted in the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The 1988 Convention has been ratified by ninety percent of all nations, including all of the key ephedrine and pseudoephedrine manufacturing and importing nations.³⁶

Article Twelve of the 1988 Convention, entitled "Substances Frequently Used in the Illicit Manufacture of Narcotic Drugs or Psychotropic Drugs," specifically provided for the tracking and reporting of critical precursor chemicals, including ephedrine and pseudoephedrine. Unfortunately, Section Fourteen of Article Twelve included essentially the same

essential chemicals to the illegal production of drugs; to the Committee on the Judiciary." 133 Cong. Rec. 9,771 (daily ed. Apr. 27, 1987) (statement of Sen. Meese).

32. See H.R. 2585, 100th Cong. (introduced June 3, 1987) (containing the original strong controls from Senator Dole's bill); H.R. 2846, 100th Cong. (introduced June 30, 1987) (proposing to regulate ephedrine, but not pseudoephedrine); H.R. 3062, 100th Cong. (introduced July 30, 1987) (containing a variation of the original proposal); H.R. 3268, 100th Cong. (introduced Sept. 15, 1987) (containing another variation of the original proposal).

33. H.R. 2585, 100th Cong. (introduced June 3, 1987); H.R. 2846, 100th Cong. (introduced June 30, 1987); H.R. 3062, 100th Cong. (introduced July 30, 1987); H.R. 3268, 100th Cong. (introduced Sept. 15, 1987).

34. 133 Cong. Rec. D725 (daily ed. Oct. 15, 1987).

35. Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181, 4312-20 (1988). Title VI, Subtitle A, of the Act was entitled the Chemical Diversion and Trafficking Act of 1988. 102 Stat. 4312-20. The infamous "31 word exception" appeared in 6054 of the Act, 102 Stat. 4317, which amended the definition § 102 of the Controlled Substances Act, 21 U.S.C. § 802(39), by defining "regulated transaction" to exclude "any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetics Act." Section 6054 of the 1988 Act also inserted subsection (34) into 21 U.S.C. § 802, which added both ephedrine and pseudoephedrine as a "listed precursor chemical" subject to regulation under the Controlled Substances Act.

36. United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Opened for Signature Dec. 20, 1988, http://www.unodc.org/pdf/treaty_adherence_convention_1988.pdf (Canada, July 5, 1993; China, Oct. 25, 1989; Czech Republic, Dec. 30, 1993 (Czechoslovakia ratified June 4, 1991); Germany, Nov. 30, 1993; India, Mar. 27, 1990; Mexico Apr. 11, 1990; United States, Feb. 20, 1990).

exception for the benefit of the pharmaceutical industry: “The provisions of this article shall not apply to pharmaceutical preparations.”³⁷

Thus, in 1988, the pharmaceutical industry successfully avoided effective domestic and international control of ephedrine and pseudoephedrine. Over the next few years, the meth epidemic began to proliferate across the United States, through organized drug cartels, as well as through small toxic home meth labs.³⁸

By 1993, it had become clear that the pharmaceutical industry would need to make further concessions to avoid strong control of ephedrine and pseudoephedrine. The industry chose to sacrifice ephedrine. A 1993 compromise required sellers of ephedrine tablets to keep records of customers, report suspicious sales, and register with the DEA.³⁹

As a result of these new controls, ephedrine became scarce and meth purity began to drop as the drug cartels were forced to cut their meth with diluents in order to meet demand.⁴⁰ Average meth purity in the United States plummeted from seventy percent pure in the middle of 1995 to just over forty percent pure in the middle of 1996.⁴¹ When meth supply is short

37. 2005 INT’L NARCOTICS REP., *supra* note 1, at 28. By 2005, the tragic consequences of this loophole were crystal clear:

Pseudoephedrine is the key precursor used for the illicit manufacture of methamphetamine, which is abused mainly in the United States and in countries in Southeast Asia. While pseudoephedrine is listed in Table I of the 1988 Convention, the control measures provided for in article 12 of that convention do not apply to pharmaceutical preparations containing the substance. As a result, and as more and more countries have strengthened their controls over the raw material, traffickers are increasingly taking advantage of that loophole in the international drug control regime.

Id.

38. *Suo, Unnecessary Epidemic, supra* note 11, at A01.

39. Domestic Chemical Diversion Control Act of 1993, Pub. L. No. 103-200, 107 Stat. 2333 (1993). The controls were phased in from April of 1994 through August 1995. 21 C.F.R. pts. 1307, 1309, 1310, 1313, 1316. Effective November 10, 1994, the DEA eliminated the quantity threshold for ephedrine. Elimination of Threshold for Ephedrine, 59 Fed. Reg. 51,365 (Oct. 11, 1994) (codified at 21 C.F.R. pts. 1310 and 1313). Later, due to safety concerns, ephedrine was effectively banned by the FDA. *See* Final Rule Declaring Dietary Supplements Containing Ephedrine Alkaloids Adulterated Because They Present an Unreasonable Risk; Final Rule, 69 Fed. Reg. 6,788 (Feb. 11, 2004) (codified at 21 C.F.R. pt. 119); Cough, Cold, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use, 70 Fed. Reg. 40,232 (July 13, 2005) (codified at 21 C.F.R. pts. 310 and 341).

40. *Suo, Unnecessary Epidemic, supra* note 11, at A1. The most common diluent, or cut, for methamphetamine is methylsulfonylmethane (“MSM”), also known as dimethylsulfone (DMSO₂). MSM is a dietary supplement for both human and livestock consumption, and is the preferred diluent for meth because it easily blends and crystallizes with meth. NAT’L DRUG INTELLIGENCE CTR., CRYSTAL METHAMPHETAMINE 3 (2002). When the supply of meth is short, “cutting” meth with a diluent, such as MSM, enables the illicit drug dealers to provide enough meth to meet demand.

41. *Id.* Average purity levels were calculated and tabulated by *The Oregonian* and the RAND Corporation using data derived from the DEA’s System to Retrieve Information from Drug Evidence, commonly known by its acronym STRIDE.

and meth purity declines as a result of cutting, prices generally increase; and with reduced purity and increased price, less people become addicted and the collateral damage to society is reduced.⁴² Unfortunately, it did not take long for the drug cartels to begin making the switch to pseudoephedrine.⁴³ By mid-1997, the average purity of meth in the United States was back up to sixty percent.⁴⁴

On Halloween in 1995, the DEA proposed new regulations pursuant to their discretionary authority in the 1993 legislation.⁴⁵ The new proposed regulations would require manufacturers and wholesale distributors of pseudoephedrine to get a license from the DEA and keep a record of every sale of more than 400 tablets of pseudoephedrine.⁴⁶ For another brief moment in time, it appeared that the federal government would get serious about comprehensively controlling both ephedrine and pseudoephedrine. But it was not to be.

C. 1996 TO 2005: AN EPIDEMIC IN FULL BLOOM

In March of 1996, California Senator Diane Feinstein introduced a bill that would have allowed the DEA to clamp down on companies whose products were repeatedly found in meth labs.⁴⁷ The DEA would be required to first issue a warning notice, but subsequent offenses could lead to civil penalties of as much as \$250,000 or revocation of the license to manufacture or sell the products.⁴⁸ An identical bill was introduced in the House of Representatives.⁴⁹

In August of 1996, the DEA adopted the proposed pseudoephedrine control rules published on Halloween in 1995.⁵⁰ The new rules were scheduled to go into effect on October 7, 1996.⁵¹ In the face of these new strong controls, and this aggressive proposed legislation, the pharmaceutical industry scrambled. Senator Orrin Hatch intervened on behalf of the industry,

42. *Id.*; see generally Office of Nat'l Drug Control Pol'y and RAND CORP., *The Price and Purity of Illicit Drugs: 1981 Through the Second Quarter of 2003* (Nov. 2004).

43. See *supra* note 42; Suo, *Lobbyists and Loopholes*, *supra* note 28, at A1.

44. Suo, *Lobbyists and Loopholes*, *supra* note 28, at A1.

45. 21 U.S.C. § 814(a) (1993).

46. Removal of Exemption for Certain Pseudoephedrine Products Marketed Under the Food, Drug, and Cosmetic Act, 60 Fed. Reg. 55,348 (Oct. 31, 1995) (codified at 21 C.F.R. pts. 1309, 1310, and 1313).

47. S. 1607, 104th Cong. (introduced Mar. 12, 1996).

48. *Id.*

49. H.R. 3067, 104th Cong. (introduced Mar. 12, 1996).

50. Removal of Exemption for Certain Pseudoephedrine Products Marketed Under the Federal Food, Drug, and Cosmetic Act, 61 Fed. Reg. at 40,981.

51. *Id.*

worked a deal with Senator Feinstein, and introduced a bill that included an amazing provision:

SEC. 210. WITHDRAWAL OF REGULATIONS.

The final rule concerning removal of exemption for certain pseudoephedrine products marketed under the Federal Food, Drug, and Cosmetic Act published in the *Federal Register* of August 7, 1996 is null and void and of no force or effect.⁵²

Ironically named the Methamphetamine Control Act (MCA), the bill passed both the Senate and House, and was signed by the President on October 3, 1996, four days before the new DEA regulations were scheduled to go into effect.⁵³ Congress had effectively nullified the new DEA rules. The industry had yet again successfully evaded comprehensive control of pseudoephedrine.

In lieu of the DEA rules to control pseudoephedrine, the MCA instead provided for a reporting threshold of twenty-four grams per transaction.⁵⁴ However, that reporting requirement came with a huge exception: Products containing no more than three grams of pseudoephedrine tablets packaged in a blister pack were exempt.⁵⁵

Despite exempting pseudoephedrine pills in blister packs, the MCA did implement the first strong controls on bulk pseudoephedrine.⁵⁶ As a result, the average purity of meth fell again, to just above thirty percent by the middle of 1999.⁵⁷ Unfortunately, the drug cartels simply switched to the unregulated pseudoephedrine pills.

By 2000, the continuing march of the meth epidemic across America caused Congress to again turn its attention to the control of pseudoephedrine. In that year, Congress enacted an omnibus bill designed to improve services and protections for children.⁵⁸ Included as title 36 of the legislation was the Methamphetamine Anti-Proliferation Act (MAPA).⁵⁹

52. S. 1965, 104th Cong. (1996) (internal citations omitted) (italics not in original).

53. Comprehensive Methamphetamine Control Act of 1996, Pub. L. No. 104-237, 110 Stat. 3099 (Oct. 3, 1996) (codified as amended in scattered sections of 21 U.S.C.).

54. Comprehensive Methamphetamine Control Act of 1996, 21 U.S.C. § 401 (1996).

55. *Id.* This so-called "blister pack" exemption was premised on the notion that illicit meth manufacturers would not spend the time and energy to pop large amounts of pseudoephedrine pills out of foil covered blister packs; an absurd and ridiculous assumption to anyone familiar with the habits of small-scale meth manufacturers and their meth-addicted associates, or the manual labor resources that could be utilized by the drug cartels. *Id.*

56. Comprehensive Methamphetamine Control Act of 1996, 21 U.S.C. § 401 (1996), 110 Stat. 3106.

57. Suo, *Unnecessary Epidemic*, supra note 11, at A1.

58. Children's Health Act of 2000, Pub. L. No. 106-310, 114 Stat. 1101 (2000).

59. Methamphetamine Anti-Proliferation Act of 2000, § 3601, 114 Stat. 1227.

MAPA reduced the reporting threshold for pseudoephedrine from twenty-four grams to nine grams, but retained the unfortunate “blister pack” exemption.⁶⁰ The purity of meth began to rise yet again, and continued to rise until mid-2005, where it reached seventy-seven percent average purity.⁶¹

Another disturbing trend also rose to epidemic proportions during this same time period: the proliferation of small toxic home meth labs. In addition to the damage done by addiction and addiction-driven crimes, these small toxic home meth labs do additional damage by generating toxic by-products and posing a high risk of catching fire or exploding.⁶² Most tragically, they also pose severe dangers to drug-endangered children forced to live in meth lab environments.⁶³

By 2004, the annual number of meth lab incidents reported by law enforcement authorities in the United States had risen to over 17,500.⁶⁴ In 2005, the federal government increased its estimate of the percentage of meth on the street being produced in local toxic home meth labs from twenty percent to thirty-five percent.⁶⁵ Also in 2005, a majority of counties in the United States identified methamphetamine as their number one drug problem.⁶⁶

60. 21 U.S.C. § 3622, 114 Stat. 1230.

61. Steve Suo, *Crackdown Puts Meth Trade in a Bind*, THE OREGONIAN, Nov. 5, 2006, at A1.

62. See generally JOHN MARTYNY ET AL., NAT’L JEWISH MED. & RES. CTR., CHEMICAL EXPOSURES ASSOCIATED WITH CLANDESTINE METHAMPHETAMINE LABORATORIES (2004); *Public Health Consequences Among First Responders to Emergency Events Associated with Illicit Methamphetamine Laboratories—Selected States, 1996-1999*, 49 MORBID & MORTALITY WKLY. REP. 1021 (2000).

63. See NAT’L ALLIANCE FOR DRUG ENDANGERED CHILDREN, NATIONAL PROTOCOL FOR MEDICAL EVALUATION OF CHILDREN FOUND IN DRUG LABS (2004), available at <http://www.nationaldec.org/medical%protocol/DECNationalProtocal.pdf>; OFFICE FOR VICTIMS OF CRIME, U.S. DEP’T OF JUSTICE, CHILDREN AT CLANDESTINE METHAMPHETAMINE LABS: HELPING METH’S YOUNGEST VICTIMS, OVC BULLETIN 1 (2003), available at <http://ojp.usdoj/ovclpublications/bulletins/children/197590.pdf>; ORE. DEP’T OF HUMAN SERVS. CHILDREN IN METHAMPHETAMINE “LABS” IN OREGON (2003), available at <http://egov.oregon.gov/DHS.ph/cdsummary/2003/ohd5219.pdf>; NAT’L DRUG INTELLIGENCE CTR., CHILDREN AT RISK (2002), available at <http://www.usdoj.gov/rdic/pubs1/1466/index.htm>.

64. OFFICE OF NAT’L DRUG CONTROL POL’Y, SYNTHETIC DRUG CONTROL STRATEGY 4 (2006), available at www.whitehousedrugpolicy.gov/publications/synthetic_drug_control_strat/synth_strat.pdf.

65. INTERAGENCY WORKING GROUP ON SYNTHETIC DRUGS, INTERIM REPORT FROM THE INTERAGENCY WORKING GROUP ON SYNTHETIC DRUGS TO THE DIRECTOR OF NATIONAL DRUG CONTROL POLICY, ATTORNEY GEN., SECRETARY FOR HEALTH AND HUMAN SERVICES, 3 n.8 (May 23, 2005), available at http://www.whitehousedrugpolicy.gov/publications/pdf/interim_rpt.pdf [hereinafter INTERIM REP.].

66. NAT’L ASS’N OF COUNTIES, THE METH EPIDEMIC IN AMERICA 2 (July 5, 2005), available at http://www.naco.org/content/contentgroups/publications1/press_releases/documents/Naco-methsurvey.pdf.

Faced with an ever increasing incidence of small toxic meth labs, rising meth purity, and the failure of the federal government to effectively deal with the growing meth epidemic, law enforcement authorities began turning to state legislatures and local governments for relief.

For example, in 2001, the author prepared a bill for the Oregon legislature to clamp down on the precursors, reagents, and diluents commonly used to make meth.⁶⁷ The author was instructed to have a meeting with the pharmaceutical lobbyists, and told to work it out.⁶⁸ After extensive negotiations, the lobbyists agreed to allow the bill to proceed with some of our nation's first strong controls on key reagents and diluents. But, when it came time to control the key precursor, pseudoephedrine, the lobbyists would only agree to limit individual sales to nine grams per transaction.⁶⁹ The author took what he could get, and hoped it would make a difference.⁷⁰ It did not.⁷¹

In 2003, the author was assigned to have another meeting with the pharmaceutical lobbyists and told to work it out.⁷² Knowing that that strategy had failed in 2001, the author and his colleague, Craig Durbin,⁷³ decided to fight the pharmaceutical industry. Unfortunately, that new strategy likewise failed.⁷⁴

67. H.B. 3661, 71st Leg. Sess. (Or. 2001).

68. Interview by PBS Frontline with Rob Bovett, Legal Counsel for the Or. Narcotics Enforcement Ass'n (July 22, 2005), available at <http://www.pbs.org/wgbh/pages/frontline/meth/interviews/bovett.html>.

Basically the legislative approach that year was to stick me in a room with 12 lobbyists. And I can say this because I'm a lawyer: There is something worse than being stuck in a room with a dozen lawyers, and that's being stuck in a room with a dozen lobbyists. You can't take a shower long enough to wipe off the grime from that type of experience.

Id.

69. *Id.* "My first experience with them was in 2001, here at the Oregon [State] Legislature, where I tried to work cooperatively with them to get effective controls on pseudoephedrine. That didn't work. They gave a lot of issues on other ingredients, but not pseudoephedrine." *Id.*

70. 2001 Or. Laws, ch. 615 (Enacting 2001 Or. H.B. 3661).

71. In 2001, the number of meth lab incidents reported by law enforcement authorities in Oregon was 522. H.B. 3661 went into effect on January 1, 2002. In 2002, the number of meth lab incidents reported by law enforcement authorities in Oregon was 466.

72. The Oregon legislature meets every other year. OR. CONST. art. IV, § 10.

73. Then Lt. (now Capt.) Craig Durbin, Oregon State Police.

74. The bill Mr. Bovett prepared in 2003 was Oregon H.B. 2034. We attempted to include a provision that would have required all pseudoephedrine products be kept behind-the-counter. 2003 Or. H.B. 2034, Dash-2 amendments. The pharmaceutical lobby fought our efforts to include that provision during multiple committee hearings. The bill passed, but without the behind-the-counter provision. 2003 Or. Laws, ch. 448 (Enrolled 2003 Or. H.B. 2034).

The day after Christmas in 2003, a tragic event occurred that would forever change the landscape of pseudoephedrine control.⁷⁵ On that day, Trooper Nikky Joe Green of the Oklahoma State Police was nearing the end of his shift and stopped to check on a possible disabled vehicle on the side of the road which had its trunk and hood open.⁷⁶ What Trooper Green discovered was a meth lab.⁷⁷ When Trooper Green attempted to arrest the suspect, a struggle ensued and the suspect shot and killed the trooper.⁷⁸

Coupled together with an onslaught of local toxic meth labs, this tragic event galvanized political will in Oklahoma. In 2004, Oklahoma passed the first state law effectively controlling pseudoephedrine, by requiring that pseudoephedrine products be placed behind the pharmacy counter and that all sales be logged, including photo identification for each customer.⁷⁹ This was the first of two watershed events in 2004.

The State of Oregon quickly seized the opportunity to follow suit.⁸⁰ However, Oregon initially did not go quite as far as Oklahoma. The initial control adopted in Oregon included all elements of the new Oklahoma rule, except there was no logging for each sale, and “combination” pseudoephedrine products were allowed to remain behind the counter in both pharmacies and grocery stores or convenience stores.⁸¹

75. The Officer Down Memorial Page, <http://odmp.org/officer.php?oid=17073> (last visited Jan. 26, 2007).

76. *Id.*

77. *Id.*

78. *Id.*

79. Okla. H.B. 2176 (2004) (codified, as amended, OKLA. STAT. ANN. § 63-2-212 (2004)). This set of requirements is sometimes referred to as “Schedule V,” a reference to Schedule V of the Controlled Substances Act in many states, which contain requirements that are effectively the same as the Oklahoma pseudoephedrine control legislation. *Id.* However, there is currently no uniformity among states as to the existence of Schedule V, and the requirements contained in Schedule V. Therefore, I will refer to this set of controls as the “Oklahoma rule.”

80. At one point in the summer of 2004, the author was warned by the lobbyist for Pfizer, then the world’s largest manufacturer of pseudoephedrine products, that if we continued to pursue legislation to pull pseudoephedrine products from over-the-counter sales, Pfizer might very well get out of the pseudoephedrine business. It was meant as a threat, but the author treated it as an opportunity. After it became clear that the Oklahoma and Oregon pseudoephedrine controls had successfully reduced the incidence of meth labs in those states and that other states would likely follow suit, Pfizer read the handwriting on the wall and beat out their competition by quietly reformulating their key pseudoephedrine products with another decongestant, phenylephrine, and announced their new products to the *Wall Street Journal*. Heather Won Tesoriero, *Pfizer-Backed Move to Curb Cold Pills May Boost Company*, WALL ST. J., Apr. 13, 2005, at B1.

81. OR. ADMIN. R. 855-050-0035 (2004). “Combination” product refers to a pharmaceutical product that contains more than one active ingredient, for example pseudoephedrine (a decongestant) together with an antihistamine. This action was the direct result of a request by Oregon Governor Ted Kulongoski to the Oregon Board of Pharmacy on behalf of the Governor’s Meth Task Force. Our request was for the full Oklahoma rule. Public Safety Review Task Force Recommendations, <http://159.121.112.123/PSReview/viewtfrec.php?tf=MTF> (last visited Jan. 19, 2007). However, the Oregon Board of Pharmacy initially chose to implement the weaker version.

Thus, in 2004, two experiments began in two different states: Oregon and Oklahoma. A few months later, the results were clear. The Oregon rule was effective at reducing the incidence of local toxic meth labs, but not nearly as effective as the Oklahoma rule.⁸² So in early 2005, Oregon adopted the full Oklahoma rule.⁸³

In May of 2005, a report from the federal government recognized the significant progress being made in Oklahoma and Oregon.⁸⁴ Although the report refrained from endorsing the Oklahoma and Oregon pseudoephedrine controls, the report did label them as promising approaches and found that the results “strongly suggest that Oklahoma’s and Oregon’s state-level approaches are probably primary reasons” for the dramatic reduction in the number of small toxic meth labs.⁸⁵

Coupled together with a migration of Oklahoma and Oregon meth “cooks” and “smurfers”⁸⁶ into neighboring states,⁸⁷ the successful results in Oklahoma and Oregon led to a domino effect in other states. By the end of 2005, a majority of states had adopted some variation of strong controls on pseudoephedrine, and the annual number of meth lab incidents reported by law enforcement authorities in the United States plummeted from over 17,500 in 2004 to 12,500 in 2005.⁸⁸

Another watershed event occurred in 2004. On October 4, 2004, *The Oregonian* began publishing a series of articles with an international focus aimed at the drug cartel “super labs” responsible for producing most of the world’s meth.⁸⁹ This series brought much needed public and political

82. INTERIM REP., *supra* note 65, at 6-9.

83. OR. ADMIN. R. 855-050-0037, 0043 (2005) (repealed 2006).

84. INTERIM REP., *supra* note 65, at 6-9.

85. *Id.* at 9.

86. A person who illicitly manufactures meth is commonly referred to as a meth “cook.” A person who busily goes from store to store acquiring pseudoephedrine pills for a meth cook, usually in exchange for finished product, is commonly referred to as a “smurf,” an oblique reference to the social structure and behaviorisms of small blue characters in a popular children’s animated television series by that same name.

87. See Steve Painter, *Meth Makers Flock Here for Ingredients*, WICHITA EAGLE (Kansas), Dec. 14, 2004; *Oregon Law Drives Meth Makers to Washington* (King 5 News, Seattle, Washington, television broadcast Feb. 15, 2005).

88. OFFICE OF NAT’L DRUG CONTROL POL’Y, PUSHING BACK AGAINST METH: A PROGRESS REPORT ON THE FIGHT AGAINST METHAMPHETAMINE IN THE UNITED STATES 6-9 (Nov. 30, 2006); NAT’L ALLIANCE FOR MODEL STATE DRUG LAWS, RESTRICTIONS ON OVER-THE-COUNTER SALES/PURCHASES OF PRODUCTS CONTAINING PSEUDOEPHEDRINE—STATE LEGISLATIVE/REGULATORY RESTRICTIONS (Nov. 3, 2006).

89. OregonLive.com, Unnecessary Epidemic: A Five-Part Series, <http://www.oregonlive.com/special/oregonian/meth/> (last visited June 27, 2007). As a result of this ground breaking investigative journalism, reporters Steve Suo and Erin Hoover Barnett were finalists for the 2005 Pulitzer Prize for national reporting. The Pulitzer Prize Winners 2005, <http://www.pulitzer.org/year/2005/national-reporting/> (last visited June 27, 2007).

attention to the need for strong domestic and international control of ephedrine and pseudoephedrine as a means of controlling the meth epidemic.⁹⁰

Also in October of 2004, the federal government issued its own report.⁹¹ Although lacking the thorough examination of the underlying facts and history as provided by *The Oregonian*, the report identified the need for stronger state, federal, and international control of ephedrine and pseudoephedrine.⁹² The stage had been set for taking strong action to control both domestic and international pseudoephedrine.

With a dramatic reduction in the incidence of small toxic meth labs in Oklahoma, Oregon, and many other states,⁹³ two questions arose: (1) How to eradicate the remaining local toxic meth labs, as a matter of public safety and community protection; and (2) how to eradicate the “super labs” producing most of the meth.

Answering the first question required an analysis of the source of pseudoephedrine feeding the remaining small toxic meth labs in those states that had already taken strong action to control pseudoephedrine, such as Oklahoma and Oregon. Not surprisingly, the primary sources of pseudoephedrine for the remaining small toxic meth labs in those states were group smurfing and interstate smurfing.⁹⁴

To eliminate group smurfing, in 2005 the Oregon legislature enacted a bill to classify pseudoephedrine as a prescription drug.⁹⁵ In order to prove

90. The series also led to the production of a national broadcast by PBS's Frontline. *The Meth Epidemic* (PBS Frontline Film 2006), available at <http://www.pbs.org/wgbh/pages/frontline/meth> (last visited July 10, 2007).

91. See generally OFFICE OF NAT'L DRUG CONTROL POLICY, NAT'L SYNTHETIC DRUGS ACTION PLAN (2004).

92. *Id.*

93. OFFICE OF NAT'L DRUG CONTROL POL'Y, *supra* note 64, at 11. By 2006, the federal government estimated that the percentage of meth on the street being produced in local toxic home meth labs had decreased from thirty-five percent to twenty percent. *Id.*

94. Interstate smurfing refers to the practice of traveling to a state where pseudoephedrine is not as heavily regulated, in order to smurf the pseudoephedrine. See *supra* note 86 (providing the meaning of the term “smurf”). Group smurfing refers to the practice of having a group of smurfers, each of whom goes to a pharmacy or two and acquires a small amount of pseudoephedrine at each pharmacy, thus effectively evading the Oklahoma rule by acting as a group.

95. 2005 Or. Laws, ch. 706 (Enrolled House Bill 2485), § 11; OR. REV. STAT. § 475.973 (2005). For a time, the Oregon legislature seriously considered banning pseudoephedrine altogether. Jeff Mapes, *State Lawmakers Draft Ban on All Cold Pills Used to Make Meth*, THE OREGONIAN, May 25, 2005, at A1. House Bill 2485 was half of the 2005 Oregon anti-meth package. The other half was Enrolled Senate Bill 907, focusing on drug endangered children. 2005 Or. Laws, ch. 708. Interestingly enough, there was only one Oregon legislator who voted against the entire 2005 Oregon anti-meth package. Tragically, in a bizarre turn of events, a few months later, that legislator was charged with possession of meth, and later resigned. Janie Har, *Lawmaker Faces Arrest in Salem on Meth Charge*, THE OREGONIAN, Oct. 13, 2005, at A1; Jeff Mapes & Janie Har, *Private Troubles, Public Downfall*, THE OREGONIAN, Oct. 16, 2005, at A1.

the point, the bipartisan Oregon legislative meth caucus themselves became group smurfers (the author served as their pretend meth “cook”), and over the course of an hour they lawfully purchased enough pseudoephedrine to produce 180 doses of meth.⁹⁶ The prescription requirement went into effect on July 1, 2006.⁹⁷ As a result, Oregon has now experienced the largest reduction in small toxic meth labs.⁹⁸ To address interstate smurfing, we urged Congress to pass legislation that, at a minimum, would nationalize the highly successful Oklahoma rule. Entitled the Combat Methamphetamine Act (CMA), it was introduced in the Senate.⁹⁹

Finally, to address cutting off the supply of pseudoephedrine feeding the “super labs” producing most of the world’s meth, we urged Congress to pass legislation requiring the tracking of international pseudoephedrine shipments to ensure they were not diverted, setting international quotas on legitimate imports of pseudoephedrine, and empowering the federal government to cut United States foreign aid from countries that failed to comply. Entitled the Methamphetamine Epidemic Elimination Act (MEEA), it was introduced in the House.¹⁰⁰

III. 2006 AND BEYOND: A GOLDEN OPPORTUNITY

By the end of 2005, it was clear that the pharmaceutical industry was not happy with the CMA, and the Administration was not happy with the MEEA.¹⁰¹ As a result, Congressional leaders decided they needed to consolidate the CMA and the MEEA into a single piece of legislation, and stuff

96. Jeff Mapes, *Lawmakers Score Pills to Cook Up Support for Prescription Bill*, THE OREGONIAN, July 20, 2005, at A1.

97. OR. ADMIN. R. 855-080-0023 (2006).

98. See generally OFFICE OF NAT’L DRUG CONTROL POL’Y, PUSHING BACK AGAINST METH, *supra* note 88; see generally Pre and Post Pseudoephedrine Control Oregon Meth Lab Stats, <http://www.oregondec.org/OregonMethLabStats.pdf> (last visited Apr. 17, 2007).

99. S. 103, 109th Cong. (introduced Jan. 24, 2005).

100. H.R. 3889, 109th Cong. (introduced Sept. 22, 2005). The bill was assembled by Congressman Mark Souder (R-In) and combined key provisions from earlier legislation: specifically H.R. 1056, introduced on March 2, 2005, by Congresswoman Darlene Hooley (D-Or); H. Amdt. 460 to H.R. 2601 as offered by Congressman Mark Kennedy (R-Mn) and passed by the House on July 19, 2005; and H. Amdt. 461 to H.R. 2601 as offered by Congresswoman Hooley and passed by the House on July 19, 2005.

101. However, unlike past attempts in Congress, the pharmaceutical industry was no longer entirely united. For example, Pfizer, which had already reformulated many of its products, see *supra* note 71, was not as actively opposed to the CMA as Schering-Plough, which could not yet reformulate one of its most popular pseudoephedrine products. Ironically, only a few years before, Schering-Plough had fought efforts by the insurance industry to move that same product from prescription to over-the-counter, fearing that a lack of insurance coverage for the drug product would reduce sales. See Holley M. Spencer, *The Rx-to-OTC Switch of Claritin, Allegra, and Zyrtec: An Unprecedented FDA Response to Petitioners and the Protection of Public Health*, 51 AM. U. L. REV. 999, 1023 (2002).

the result into a bill that was destined for passage. The result was the Combat Methamphetamine Epidemic Act (CMEA), inserted into the “USA PATRIOT Improvement and Reauthorization Act” as Title VII, and signed into law by President George W. Bush on March 9, 2006.¹⁰²

Subtitle A of the CMEA contains domestic controls on pseudoephedrine.¹⁰³ It essentially nationalizes the highly successful Oklahoma rule by moving all pseudoephedrine products behind the counter, but with a big difference: It does not confine the products to behind the pharmacy counter (in other words, convenience stores, grocery stores, mobile cart vendors, and others can keep selling pseudoephedrine products).¹⁰⁴ It went into effect on September 30, 2006.¹⁰⁵

Subtitle B of the CMEA contains the international controls from the MEEA.¹⁰⁶ Unlike the Subtitle A domestic controls, the Subtitle B international controls were not watered down.¹⁰⁷

102. U.S.A. PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. No. 109-177, 120 Stat. 192, 256 (2006). Some of us were not very excited to see the CMEA inserted into that controversial bill. However, the argument on the flip side was that the CMEA did not have the votes in Congress to pass on its own.

103. *Id.* § 711 (e)(1)(A).

104. Our efforts to fight this unfortunate watering down of Subtitle A of the CMEA failed. It is particularly troublesome that these products have been left in convenience stores. While sales of these products in convenience stores represent less than one percent of the overall legitimate sales of the products; retaining the products in convenience stores leaves a huge hole in overall control. See GENE M. LUTZ & JAIME MAYFIELD, CTR. FOR SOC. & BEHAV. RES., IOWA ADULT PSEUDOEPHEDRINE PRODUCTS PURCHASING SURVEY, CENTER FOR SOCIAL AND BEHAVIORAL RESEARCH, UNIVERSITY OF NORTHERN IOWA 12 (2003), available at http://www.csbs.uni.edu/dept/csbr/pdf/_ODCP_Pseudoephedrine-2003.pdf (sales in convenience stores represents less than one percent of the legitimate product sales); JONATHAN E. ROBBIN, DRUG ENFORCEMENT ADMIN., ESTIMATION OF SIZE OF SALES OF PSEUDOEPHEDRINE PRODUCTS BY CONVENIENCE STORES IN OREGON, RICERCAR, INC. 9-10 (2001) (almost all convenience stores were selling pseudoephedrine “wildly in excess” of legitimate consumer demand; most convenience stores were “extreme outliers” for what they should have been selling; product sales expected to be in the thirty to forty dollar range per month per store, based on national studies, were instead in the \$500-\$1,000 range per month per store).

105. Despite our failure to prevent the watering down of Subtitle A of the CMEA, see *supra* note 78, we were successful in preventing the pharmaceutical industry from inserting a preemption clause inserted into Subtitle A. A preemption clause would have gutted the stronger and more effective controls enacted by a number of states, such as Oklahoma and Oregon.

106. U.S.A. PATRIOT Improvement and Reauthorization Act, Pub. L. No. 109-177, §§ 721-23, 120 Stat. 267-70 (2005).

107. However, the President added a so-called “signing statement” to the bill. The signing statement purports to reserve to the “unitary executive branch” the authority to withhold from Congress certain information, and recommendations for legislation. *Id.*; see President’s Statement on H.R. 3199, the “USA PATRIOT Improvement and Reauthorization Act of 2005,” (Mar. 9, 2006), <http://www.whitehouse.gov/news/releases/2006/03/20060309-8.html>. It remains to be seen whether this purported reservation of “unitary executive branch” authority will be exercised to withhold information or recommendations relating to the international pseudoephedrine control provisions of the CMEA.

In addition to the international controls provided in the CMEA, a few recent events have significantly furthered the cause of international control of ephedrine and pseudoephedrine. In March of 2006, the United Nations passed a resolution calling on all nations to establish strict control and monitoring of precursor chemicals,¹⁰⁸ as well as actively cooperate in the backtracking of illegal diversions of precursor chemicals to their source.¹⁰⁹

In Mexico, the location where most of the “super labs” supply most of the meth in America,¹¹⁰ the government recently took aggressive action to significantly reduce importation of pseudoephedrine to levels supported by legitimate consumer need.¹¹¹ This strong action has significantly impaired

108. The Resolution encourages all nations to establish or strengthen mechanisms and procedures to ensure strict control of substances used to manufacture illicit drugs, to support international operations aimed at preventing their diversion, including thorough coordination and cooperation between regulatory and enforcement services involved in precursor control, in cooperation with the International Narcotics Control Board, and to counter smuggling networks effectively, particularly in source and transit countries, by conducting, inter alia, backtracking law enforcement investigations.

G.A. Res. 60/178, ¶ 13, U.N. GAOR, 60th Sess., U.N. Doc. A/RES/60/178 (Mar. 22, 2006); see United Nations Commission on Narcotic Drugs Resolution, G.A. Res. 48/11, U.N. GAOR, 48th Sess. (Feb. 28, 2003) (“Strengthening international cooperation to prevent the illicit manufacture of and trafficking in narcotic drugs and psychotropic substances by preventing the diversion and smuggling of precursors and essential equipment in the context of Project Prism, Operation Purple and Operation Topaz.”). Project Prism is an ongoing effort of the International Narcotics Control Board to monitor and prevent the international illicit diversion of key precursor chemicals, including ephedrine and pseudoephedrine. See generally INT’L NARCOTICS CONTROL BD., PRECURSORS AND CHEMICALS, *supra* note 11.

109. The Resolution urges all nations and relevant international organizations to cooperate closely with the International Narcotics Control Board in order to enhance the success of “international initiatives and to initiate, where appropriate, investigations by their law enforcement authorities into seizures and cases involving the diversion or smuggling of precursors and essential equipment, with a view to tracking them back to the source of diversion in order to prevent continuing illicit activity.” G.A. Res. 60/178, ¶ 13, U.N. GAOR, 60th Sess., U.N. Doc. A/RES/60/178 (Mar. 22, 2006).

110. In the 1990s, most of the “super labs” were set up in remote farm areas of central California. Interview by PBS Frontline with Bob Pennal, Commander, Fresno Meth Task Force (2005), available at <http://www.pbs.org/wgbh/pages/frontline/meth/interviews/pennal.html>. However, strong action by United States authorities effectively chased the “super labs” to Mexico. See Richard Marosi, *U.S. Crackdown Sends Meth Labs South of the Border, Mexico Inherits a Problem that Was Long California’s*, L.A. TIMES, Nov. 26, 2006, at A1; see also 2005 INT’L NARCOTICS REP., *supra* note 1, at 58.

111. After the “super labs” migrated to Mexico in the late 1990s and early 2000s, Mexico’s importation of pseudoephedrine skyrocketed from a legitimate need of roughly 70 metric tons per year to 224 metric tons in 2004. Steve Suo, *The Mexican Connection*, THE SUNDAY OREGONIAN, June 5, 2005, at A1; Steve Suo, *Mexico’s Meth Problem Adds Up to a U.S. Meth Problem*, THE SUNDAY OREGONIAN, June 5, 2005, at A1. In 2005, Mexico cut its importation of pseudoephedrine to 134 metric tons, and for 2006 was aiming for 76 metric tons. Steve Suo, *Mexico Cuts Imports of Meth Ingredients*, THE SUNDAY OREGONIAN, Nov. 20, 2005, at A1. “The Mexican authorities have now taken specific steps to prohibit brokers from importing pseudoephedrine and have reduced imports of the substance by one half on the basis of an estimate of actual licit requirements.” INT’L NARCOTICS CONTROL BD., PRECURSORS AND CHEMICALS, *supra* note 11, at 2.

the ability of the drug cartels to acquire adequate pseudoephedrine to feed the “super labs,” as evidenced by extreme measures and extreme violence among and between drug cartels.¹¹²

In India, one of the two primary source nations for diverted ephedrine and pseudoephedrine, the government has been taking strong action to prevent unlawful diversions.¹¹³ However, it appears that China, the other primary source nation, has not yet taken strong action to prevent unlawful diversions.¹¹⁴ In any event, these recent efforts to both domestically and internationally control pseudoephedrine have cut the average purity of meth from seventy-seven percent in the spring of 2005 to fifty-one percent in the spring of 2006.¹¹⁵

Much progress has been made, but without a doubt, there is more work to be done.¹¹⁶ That work includes, but is not limited to:

- (1) Encouraging more states to make pseudoephedrine a prescription drug, or at a minimum adopt the full Oklahoma rule. If the purity of drug cartel meth continues to decline, there will be even more incentive for group smurfing and small toxic meth labs.

112. See, e.g., *Gunmen Kill Four in Mexican Pseudoephedrine Heist*, REUTERS, July 25, 2006; see also Lourdes Garcia-Navarro, *Morning Edition: Mexican Border Town Caught in Drug War* (NPR radio broadcast Sept. 21, 2005); *All Things Considered: Violence Surges Along U.S.-Mexico Border* (NPR radio broadcast Feb. 12, 2006); *Day to Day: Drug Violence Rocks Acapulco* (NPR radio broadcast Feb. 22, 2006); Lourdes Garcia-Navarro, *Morning Edition: Mexico's Drug Wars Leave Rising Death Toll* (NPR radio broadcast Sept. 21, 2006); Lourdes Garcia-Navarro, *All Things Considered: Tijuana's Drug Boom Reflects Mexico's New Problem* (NPR radio broadcast Oct. 16, 2006). In the face of escalating violence, Mexico has responded, at least initially, not by abandoning its commitment to control pseudoephedrine, but by clamping down on the drug cartels. See *Mexico Launches War on Drug Lords, Calderon Vows War Against Notorious Drug Gangs*, ASSOC. PRESS, Dec. 12, 2006; *Police Find \$206 Million in Drug Cash in Mexican House*, REUTERS, Mar. 16, 2007, available at <http://uk.reuters.com/article/wtMostRead/idUKN1643855620070317>.

113. See Pradeep Thakur, *Firms Making Prohibited "Stimulants" Under Lens*, TIMES OF INDIA, Aug. 22, 2006, available at <http://timesofindia.indianexpress.com/articleshow/1914073.cms> (explaining that the Narcotics Control Bureau is monitoring the investigation of six companies that produce ephedrine); *Narcotic Drug's Easy Availability Worries Police, Medicos*, HEALTH NEWS ONLYPUNJAB.COM, Aug. 21, 2006, <http://onlypunjab.com/fullstory2k5-insight-police+medicos-status-22-newsID-111115.html>. Earlier efforts also successfully plugged some of the pseudoephedrine control gaps in Canada. See 2005 INT'L NARCOTICS REP., *supra* note 1, at 28. However, it appears that more work is needed to close the Canadian gap. See Steve Suo, *B.C. Drug Traffickers Expanding Into Meth*, THE OREGONIAN, Dec. 4, 2006, at A1.

114. Steve Suo, *Mexico Halts Meth Chemical at Pacific Port*, THE OREGONIAN, Dec. 14, 2006, at A1 (detailing a situation in which 19.5 tons of pseudoephedrine was seized by Mexican authorities in Michoacan).

115. Suo, *Crackdown Puts Meth Trade in a Bind*, *supra* note 61, at A1; see *Meth Use Receding in Some Regions*, ASSOC. PRESS, Apr. 1, 2007, available at <http://washingtonpost.com/wp-dyn/content/article/2007/04/01/AR2007040100415.html>.

116. See generally INT'L NARCOTICS CONTROL BD., PRECURSORS AND CHEMICALS, *supra* note 11.

States that are relying upon Subtitle A of the CMEA, with its gaping hole, have a huge potential risk.¹¹⁷

(2) Encouraging Congress to amend Subtitle A of the CMEA to fix the gaping hole.¹¹⁸

(3) Providing the international community with the tools and support necessary to quickly and efficiently shut down all gaps that develop in the international flow of ephedrine and pseudoephedrine, to ensure that those two key precursors do not feed the “super labs” of drug cartels.¹¹⁹

117. See *supra* notes 86 and 94 and accompanying text; see also Rob Bovett & Craig Durbin, Presentation at the Annual Conference of the Nat'l Methamphetamine & Chemicals Initiative: A Case for Quickly Moving Pseudoephedrine to Schedule III (May 17-18, 2006), available at <http://www.oregondec.org/NMCIbrochure.pdf>.

118. *Id.*

119. INT'L NARCOTICS CONTROL BD., PRECURSORS AND CHEMICALS, *supra* note 11, at 4. The key is to maintain flexibility and speed. *Id.*

As has been seen in the past, when adequate controls are introduced in one country, traffickers will immediately target other countries in the region where controls may not be as strong. Following the introduction of stricter controls in Mexico, attempts to divert 3,000 kg of ephedrine and 3,000 kg of pseudoephedrine through Belize and 350,000 pseudoephedrine tablets through Nicaragua were uncovered.

Id. There may be a need to amend Subtitle B of the CMEA, but most importantly the need to amend will simply require being out there, with staff, “visiting all these countries, making friends, establishing connections, because people trust when they meet eye to eye, face to face, not once, but frequently. Then people trust. Then information flows. Then cases are made. Then things happen.” Interview by PBS Frontline with Gene Haislip, *supra* note 24. After speaking for years with supply-side policy makers, Steve Suo of *The Oregonian* recently reported the following short list of ideas gleaned from those policy makers:

[1] **Shortening the distribution chain.** Mexico has banned middlemen from handling ephedrine and pseudoephedrine. Only pharmaceutical companies may import the chemicals. India and China could do the same, prohibiting sales from ephedrine factories to chemical brokers within the country or overseas.

[2] **Boosting technical training for Indian regulators.** The DEA's chemicals office recently announced it will exchange personnel with Mexico's health agency, COFEPRIS. Congress could expand such efforts. The Methamphetamine Trafficking Prevention Act of 2006, a bill co-sponsored by Sen. Gordon Smith, R-Ore., would authorize \$2 million for training countries that traffic in meth and its ingredients.

[3] **Helping the U.N. audit Chinese manufacturers.** Wong Hoy Yuen, the U.N. project coordinator for precursor control in East Asia, has proposed a pilot program that would audit sales records of Chinese ephedrine manufacturers for suspicious patterns. Wong estimates it would cost \$100,000, but the program is on hold for lack of funding. Congress could finance it through the State Department.

[4] **Encouraging participation in the U.N.'s ephedrine “signature” program.** Investigators someday could identify sources of diversion by testing ephedrine seized at meth labs against chemical profiles of ephedrine provided by manufacturers. The project has been in the works for two years, but not all Indian and Chinese manufacturers have volunteered their assistance.

[5] **Providing forensic laboratory equipment to India.** A. Shankar Rao, director of India's Narcotics Control Bureau for New Delhi, is a fan of the U.N.'s ephedrine

- (4) Developing and implementing comprehensive science-based prevention, enforcement, and treatment programs.¹²⁰

IV. CONCLUSION

After a long and frustrating struggle, strategies to curb the manufacturing of methamphetamine are working. Small toxic meth labs have all but disappeared in states that have effectively controlled pseudoephedrine. Meth purity is plummeting and meth price is increasing due to stronger international controls on ephedrine and pseudoephedrine. There is now a window of opportunity—a golden opportunity—to take the next step and deal with the underlying issue of addiction, through science-based prevention, enforcement, and treatment. We must begin the process of healing lives and families and ending the vicious cycle of addiction.

*One-hundred years from now,
it will not matter what your bank account was,
the sort of house you lived in, or the kind of car you drove.
But the world may be different because you were
important in the life of child.*

—Anonymous

signature program. But even if the signatures were available, his agency lacks the facilities to exploit the data in investigations.

[6] Paying ephedrine factories not to produce. The U.S. Agency for International Development spent \$216 million in 2006 to help Latin American farmers grow crops other than cocoa, the ingredient in cocaine. USAID could use some of the money to help ephedrine makers retool at a time when sales to North America have dropped 75 percent since 2004. That year, countries worldwide valued their imports of ephedrine and pseudoephedrine from Germany, India, China and Czech Republic at \$84 million, U.N. data show.

Steve Suo, *Cutting Off the Pipeline*, THE SUNDAY OREGONIAN, Dec. 3, 2006, at A18.

120. G.A. Res. 60/178, ¶ 13, U.N. GAOR, 60th Sess., U.N. Doc. A/RES/60/178 (Mar. 22, 2006). For 150 years, we have based drug control policy, at least in part, on fear. We need to ensure that, henceforth, we base domestic and international drug control policy on science and facts. All nations “must renew their efforts, at the national, regional and international levels, to implement” comprehensive measures to “counter the abuse and recreational use of amphetamine-type stimulants, especially by young people, and to disseminate information on the adverse health, social and economic consequences of such abuse.” *Id.*



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Rob Bovett
District Attorney

Marcia Buckley
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Rob Bovett

Drug Policy Bio

- Rob serves as the elected District Attorney for Lincoln County, Oregon. Rob also serves as legal advisor for the Oregon Narcotics Enforcement Association. Rob is the primary author of Oregon's meth lab control laws, and helped author federal laws to control international diversion of meth lab chemicals.

- Rob served as Chair of Oregon's Meth Task Force, and currently serves on the Advisory Board of the National Methamphetamine & Pharmaceuticals Initiative (NMPI).

- Rob is co-founder and President of the Oregon Alliance for Drug Endangered Children.

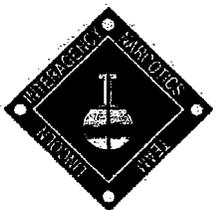
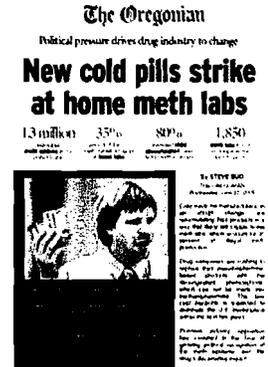
- Rob created the Lincoln County Meth Initiative, focusing on science-based prevention, enforcement, and treatment.

- Rob recently authored a law review article entitled *Meth Epidemic Solutions*, 82 North Dakota Law Review 1195.

- Rob has provided over 400 presentations regarding drug policy, and has appeared on numerous programs, including ABC World News, Good Morning America, National Public Radio, and PBS NewsHour and FRONTLINE.

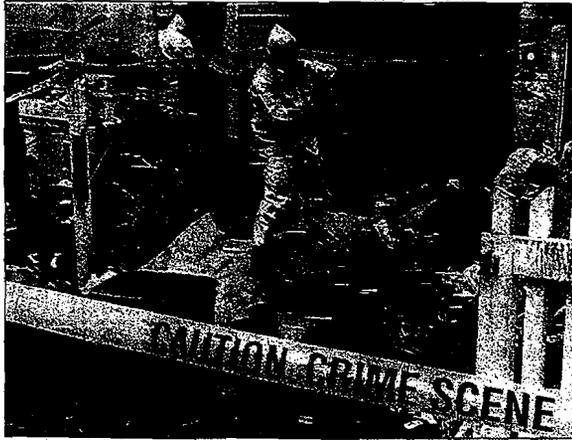
- Rob is the recipient of the 2006 Oregon Governor's Gold Award for outstanding public service, and the 2008 NMPI national "Impact" award.

- Rob is married and has four children – two in college, one in high school, and one in the National Guard – so Rob is aging a bit faster than normal.

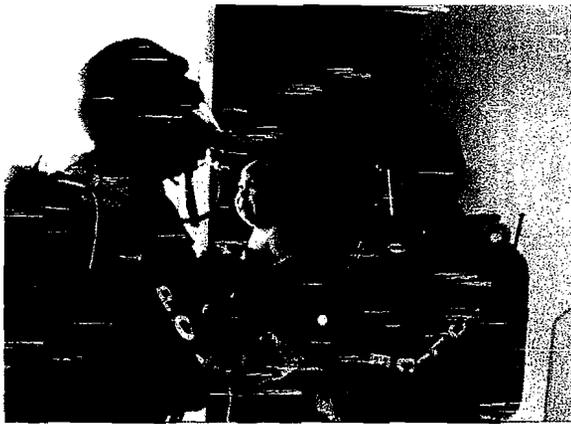


The "No Meth Not Here" campaign banner image above was created in the Spring of 2007 by students at the Siletz Valley School as part of the Methamphetamine Awareness Project (MAP), a part of the Lincoln County Meth Initiative (LCMI).





Drug raid



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