



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

Washington, D.C. 20503

October 13, 2010

The Honorable Linda Lawson
Sentencing Policy Study Committee
Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789

Dear Representative Lawson:

I have learned that Indiana's state legislative Sentencing Policy Study Committee is currently reviewing laws and policies relating to controlling methamphetamine. As Director of National Drug Control Policy, one of my top priorities is ensuring our Nation is taking action to address the terrible consequences of methamphetamine production, trafficking, and use. I would like to provide you with additional information on this important issue.

I am concerned that our current laws, including the 2005 Federal Combating Methamphetamine Epidemic Act (CMEA), and similar state laws which attempt to restrict diversion of retail sales of pseudoephedrine, are being circumvented by methamphetamine manufacturers. Although there was a significant decline in meth lab incidents after the CMEA was enacted, total lab incidents increased in 2008 and 2009. These increases are the result of two trends. First, "smurfers" are going from store-to-store, buying the maximum allowable amount of pseudoephedrine products and then selling it to meth manufacturers. Second, we have seen an increase in small "one-pot" labs which require only a modest amount of pseudoephedrine, causing even purchases under the legal limit to be frequently diverted to meth labs. This has resulted in a surge of lab numbers in several states, including Indiana, despite the hard work of dedicated law enforcement professionals. And we have recently learned through the National Survey on Drug Use and Health, that methamphetamine use is increasing.

As you know, the revival of production and distribution of methamphetamine has renewed public health, safety, environmental, and fiscal concerns. Significant costs are associated with responding to meth labs. Although estimates vary depending upon the size of the lab, but according to figures used by the Oklahoma Bureau of Narcotics, the combination of clean-up costs (\$3,500), law enforcement costs (\$5,000), court costs (\$5,000), incarceration costs (\$252,000), plus property damage, treatment, mental health, and child welfare costs, add up to an average estimate of \$350,000 per lab, once suspects are arrested. Indiana, with 1,343 lab incidents in 2009 according to state data (1,236 lab incidents are reflected to date in the National Seizure System) is facing hundreds of millions of dollars in costs associated with meth labs and meth production. With 9,847 lab incidents nationwide last year, American taxpayers are paying billions to address this scourge. Some facets of the problem cannot be stated in dollars. The consequences for families and communities are dire and many children's lives are directly affected. For these reasons, I believe all of us in government need to carefully review options to address this issue.

As discussed in the Administration's 2010 *National Drug Control Strategy*, in 2006, the State of Oregon returned pseudoephedrine to prescription drug status, as it was prior to 1976. According to several public officials in Oregon, including Rob Bovett, Lincoln County District Attorney and principal architect of the Oregon legislation, three years later, the results are

encouraging. The evidence shows smurfing has been eliminated and meth production within the state has been sharply reduced. The Mississippi state legislature, having studied Oregon's experience and facing its own resurgence of lab incidents, enacted a similar law, which took effect on July 1.

The primary alternative to returning PSE to its former status as a prescription drug is the use of electronic tracking databases. In those cases where PSE purchasers use their real names and a legitimate form of identification when they make retail purchases, law enforcement may be able to employ electronic tracking to identify those who violate sales limits. Unfortunately, these systems break down when, as is often the case, purchasers use false names or forms of identification. Further, electronic tracking does not stop retail diversion; although it provides a significant number of potential leads to law enforcement agencies. In this environment of finite law enforcement and prosecutorial resources, it is important to ask which is more valuable: a tool that facilitates the investigation, arrest, prosecution, and incarceration of meth lab operators and diverters of PSE, or a policy that prevents these activities from happening.

Currently there is no Federal legislation pending to make PSE a prescription drug, and the Obama Administration has yet to take a formal position on this issue, but we have discussed this issue with several U.S. Senators and Representatives. These are difficult decisions with which policy makers must grapple, and I encourage your Committee to speak with your counterparts in Oregon and Mississippi when considering laws and policies relating to methamphetamine. Please do not hesitate to contact me if there is anything my office or other Federal agencies can do to support your study of this important problem.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Gil Kerlikowske".

R. Gil Kerlikowske
Director