



## Lincoln County District Attorney

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**Rob Bovett**  
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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.

(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](http://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

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- “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](mailto:RBovett@co.lincoln.or.us). For more information, the author recommends readers visit [www.oregondec.org](http://www.oregondec.org).***