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March 9, 2011

Written Testimony of Rob Bovett before the Missouri Crime Prevention and Public Safety Committee

Chair Schad, Vice Chair Marshall, and Representatives Cierpiot, Colona, Conway, Fuhr, Higdon, Hinson, Lasater, McGeoghegan, Pace, Peters-Baker, Phillips, Reiboldt, and Walton Gray,

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 Missouri what you ought to do about meth labs. That is, of course, entirely up to you and your fellow legislators and citizens. I am here merely to tell you about the actual Oregon experience, in contrast to what others might want you to believe. Here is my brief 10-point summary:

1. In 1976, the Food & Drug Administration let a genie of the bottle by permitting PSE to be sold over-the-counter. Ever since then, Congress and state lawmakers have put band-aids on the problem of retail PSE diverted to make meth. Those 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 – and 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. 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.

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

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7. In contrast, returning PSE to a prescription drug eliminates all forms of smurfing. Oregon has eliminated smurfing and virtually eradicated meth labs. Further, with almost five 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.

8. 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.

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

10. In 2010, the Mississippi legislature followed Oregon’s lead and returned PSE to a prescription drug, effective July 1, 2010. Since that time, Mississippi has already experienced a 67% reduction in meth labs incidents, a 62% reduction in meth related arrests, and an 83% reduction in children removed from meth lab sites.

I have enclosed four double-sided documents I hope you will find helpful. Those and many other relevant documents are also posted at <http://www.oregondec.org/pse.htm>.

There are those that would have you believe a “parade of horrors” will occur if you return pseudoephedrine to a prescription drug and take strong action to get rid of Missouri meth labs. Don’t believe it. It is a *false* parade of horrors, and we have years of experience and evidence to prove it.

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



Sincerely,



Rob Bovett
Legal Counsel, Oregon Narcotics Enforcement Association
President, Oregon Alliance for Drug Endangered Children

enc: Oregon fact sheet (side 1) / Graphs of MO/KY/OR meth lab trends by *News-Leader* (side 2)
“How to Kill the Meth Monster” *New York Times* Op Ed (sides 1 and 2)
Mississippi fact sheet (side 1) / Mississippi meth data from MBN (side 2)
Mississippi news release from MBN (March 2, 2011) (sides 1 and 2)

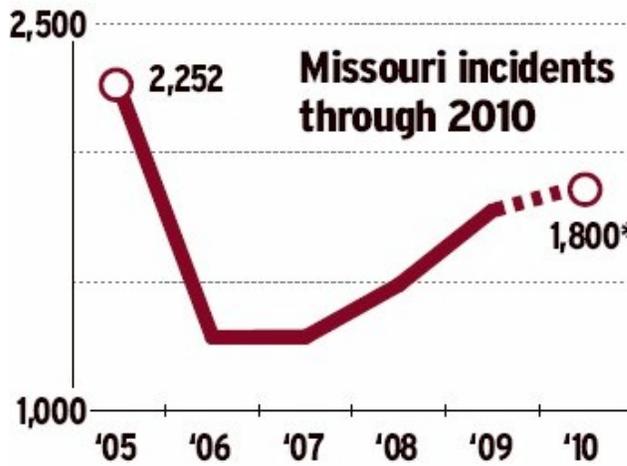
Methamphetamine - Oregon Fact Sheet

- In 2005, Oregon shifted away from drug polices based on fear and reaction, and moved toward drug polices based on science in the areas of Prevention, Enforcement, and Treatment.
<http://www.oregondec.org/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>
- 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 has experienced the following:
 - 100% reduction (elimination) of PSE smurfing, and 96% reduction in meth lab incidents.
<http://www.oregondec.org/OregonMethLabTrends.pdf>
<http://www.oregondec.org/OregonMethLabStats.pdf>
 - 32% reduction in meth arrests.
<http://www.oregon.gov/CJC/SAC.html>
 - 33% reduction in meth treatment admissions.
<http://www.oregon.gov/DHS/mentalhealth/data/main.shtml>
<http://www.oregondec.org/OrTxAdmits-2004-2009.pdf>
 - 35% reduction in meth-related emergency room visits.
<http://www.rdmag.com/News/Feeds/2010/06/policy-ohsu-emergency-department-reports-fewer-meth-relat/>
http://www.oregonlive.com/health/index.ssf/2010/06/decongestant_ban_cut_ohsus_met.html
- 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
<http://www.oregondec.org/Oregonian.pdf>
 - By 2009, Oregon crime rates were at a 50-year low.
http://www.leg.state.or.us/press_releases/sdo_052410_III.html
<http://www.dailyemerald.com/news/director-attributes-low-crime-rates-to-meth-laws-1.1488619>

Updated March 1, 2011

For more information, visit <http://www.oregondec.org/pse.htm>

Pseudoephedrine control around the U.S.

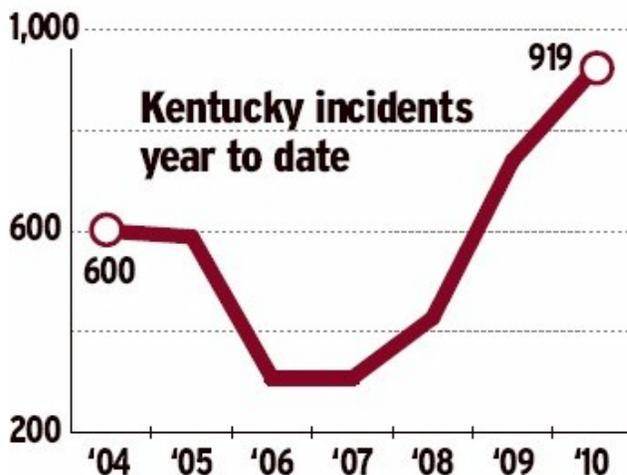


Currently, Mississippi and Oregon require a prescription for pseudoephedrine.

Missouri

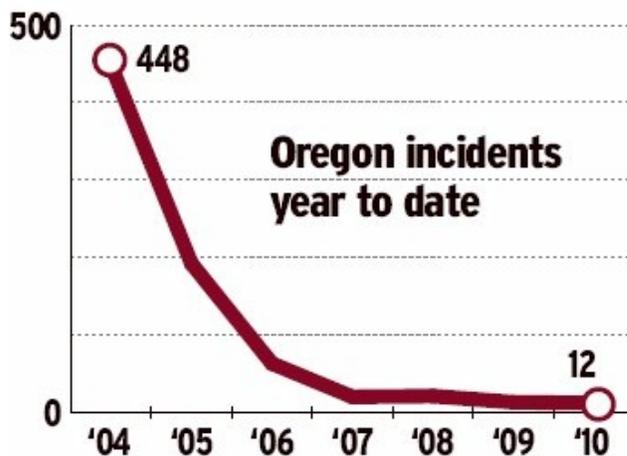
In mid-2005, pseudoephedrine products went behind the counter. Earlier this year, an electronic system was implemented to track those who buy PSE products.

*There have been 1,242 incidents through Aug. 2010. At this pace the 2010 total would be more than 1,800.



Kentucky

In 2005, pseudoephedrine products went behind the counter. In 2008, an electronic system was implemented to track those who buy PSE products.



Oregon

In 2005, pseudoephedrine products went behind the counter and sales began to be logged. In 2006, PSE products began to require a prescription.

SOURCES: MISSOURI STATE HIGHWAY PATROL, OREGON STATE POLICE, KENTUCKY STATE POLICE

NEWS-LEADER

Chart from the Springfield News-Leader

<http://www.news-leader.com/assets/pdf/DO167356121.PDF>

The New York Times

OP ED

How to Kill the Meth Monster

November 16, 2010
By ROB BOVETT

Newport, Ore.

THE latest bad news from the world of methamphetamine is that makers of the drug have perfected a one-pot recipe that enables them to manufacture their highly addictive product while on the move, often in their car. The materials they need — a two-liter soda bottle, a few cold pills and some household chemicals — are easily obtained and easily discarded, often in a trash bag dumped along the highway.

There is, however, a simple way to end this mobile industry — and, indeed, most methamphetamine production. We've tried it in Oregon, and have seen how well it works. Just keep a key ingredient, pseudoephedrine, out of the hands of meth producers.



Pseudoephedrine is a nasal decongestant found in some cold and allergy medicines. In 1976, the Food and Drug Administration allowed it to be sold over the counter, inadvertently letting the genie out of the bottle. Afterward, the meth epidemic spread across the nation, leaving destroyed lives and families in its wake.

Sales of products containing pseudoephedrine in the United States now amount to nearly \$600 million a year. Yet, according to the pharmaceutical industry, only 15 million Americans use the drug to treat their stuffed-up noses, and these people typically buy no more than a package or two (\$10 to \$20 worth) a year.

Over the years, Congress and state legislatures have passed laws meant to prevent the diversion of pseudoephedrine to meth production. But such efforts have amounted to only temporary Band-Aids.

In 2006, Congress required pseudoephedrine products to be moved behind the counter, set daily and monthly limits on the amount that can be sold to any one customer and required retailers to keep a log of sales. But meth users quickly learned to evade these controls by making purchases in several different stores — a practice known as “smurfing.”

In an effort to avoid having more stringent controls placed on the drug, the pharmaceutical industry is lobbying Congress to require electronic tracking of pseudoephedrine sales, as some states already do. This makes it harder for an individual smurfer to collect large quantities of the drug. But meth users get around the tracking system by banding together in cooperatives, with each member buying pseudoephedrine products in amounts small enough to evade detection. These group smurfers then contribute their portion to the pot in exchange for cash or a share of the cooked-up meth. Or, in the West, they feed the “super labs” run by drug trafficking organizations in Central California.

In Kentucky, an electronic tracking law that went into effect in 2008 has had no effect on the number of meth labs there, and only 10 percent of them are found by electronic tracking. The number of police incidents involving meth labs has actually increased by more than 40 percent.

The only effective solution is to put the genie back in the bottle by returning pseudoephedrine to prescription-drug status. That’s what Oregon did more than four years ago, enabling the state to eliminate smurfing and nearly eradicate meth labs. This is part of the reason that Oregon recently experienced the steepest decline in crime rates in the 50 states.

Earlier this year, Mississippi also passed a law requiring a prescription to get pseudoephedrine. Since July, the number of meth labs in that state has fallen by 65 percent.

In 2009, Mexico, which had been the source of most of the methamphetamine on the streets of the United States, went further, banning pseudoephedrine entirely. The potency of meth from Mexico has since plummeted. This is great news. But now the ball is back in our court.

These pseudoephedrine prescription requirements apply to only 15 pharmaceutical products and their generic equivalents — medicines like Sudafed 12 Hour, Aleve D and Advil Cold and Sinus. Most cold and allergy medicines on store shelves are not affected, because they contain no pseudoephedrine.

Senator Ron Wyden of Oregon has proposed legislation to require prescriptions for products with pseudoephedrine nationwide, and Congress should enact it without delay. American families, too many already devastated by the meth epidemic, deserve no less.

Rob Bovett, the district attorney for Lincoln County, Ore., was the primary author of Oregon’s anti-methamphetamine laws.

Methamphetamine - Mississippi Fact Sheet

- Effective July 1, 2010, Mississippi returned pseudo/ephedrine (PSE) to a prescription drug, as it was prior to 1976.
<http://billstatus.ls.state.ms.us/documents/2010/pdf/HB/0500-0599/HB0512SG.pdf>
- Since that time, Mississippi has already experienced the following:
 - 67% reduction in meth lab incidents.
<http://www.oregondec.org/2011-03-02-NewsRelease-MBN.pdf>
 - 62% reduction in meth related arrests.
<http://www.oregondec.org/2011-03-02-MBN-SupplementalFactSheet.pdf>
 - 83% reduction in children removed from meth lab sites.
<http://www.oregondec.org/2011-03-02-NewsRelease-MBN.pdf>

Updated March 2, 2011

For more information, visit <http://www.oregondec.org/pse.htm>



MISSISSIPPI BUREAU OF NARCOTICS



In 2005, Mississippi passed several new laws designed to curb the growth in production and use of crystal methamphetamine (meth) in Mississippi. [1] Unfortunately, it did not work. After an initial drop, violators easily adapted by purchasing the legal allowable amount of products at one retail outlet and following up with successive purchases at other stores using multiple buyers with multiple forms of identification.

By 2009, the Mississippi Bureau of Narcotics (MBN) recorded the following:

- Highest ever recorded number of meth labs in the state: Over 713 meth labs and 129 Drug Endangered Children in Mississippi. [2] (DEC)
- Meth-related arrests exceeded the combined total of both powder and crack cocaine arrests for the first time in Mississippi drug law enforcement history. Of approximately 3,000 drug arrests for 2009, nearly one-third were meth related.
- MBN's budget was either level funded or reduced for the 7th time in 7 years.

Obviously the 2005 laws were not working. Together with many interested groups, [3] MBN asked the question: "How will the State of Mississippi battle the growing meth problem with declining revenues?"

In answering that question, MBN considered electronic tracking logs (e-logs) and determined all e-logs have two major flaws. The first is that logs required concentrated, costly law enforcement resources to set up in real time, to monitor and investigate leads, and to take down meth production schemes. And because violators know how to adapt to e-logs, the second flaw is that e-logs have not significantly impacted ancillary costs to clean up sites, societal costs for endangered children, mental health services for meth users, cost of prosecution, and cost of incarceration. During lean budget years, it is unrealistic to expect an increase in law enforcement resources for this dedicated purpose. And besides, why track a problem when you know how to stop it?

The simple truth is the only way to stop meth labs is to hinder access to the main precursor PSE/EPH, without which meth cannot be manufactured. Prescription only for PSE/EPH was the only legitimate choice.

Recent Mississippi meth numbers tell the success story. Since July 1, 2010 MBN has recorded the following:

- Meth-related arrests are down approximately 62%.
- 203 meth labs have been reported, 67% reduction.
- 24 Drug-Endangered Children have been removed, 83% reduction.
- Meth activity in surrounding states has increased as violators move to "electronic tracking" states to find PSE/EPH.

The supporters of prescription only legislation wanted to do the right thing: adequately support law enforcement, protect children, and preserve public safety. I believe at the end of the day prescription only legislation was not only the right choice to achieve these goals, but it was also the only legitimate choice.

[1] In 2005 the Mississippi Legislature passed House Bill 607 which restricted access to PSE/EPH by limiting the amount one can purchase or possess and Senate Bill 2235 which makes possession of precursors evidence of intent to produce meth.

[2] 2005 – 237 Labs and 39 DEC, 2006 – 275 Labs and 46 DEC, 2007 – 159 Labs and 46 DEC, 2008 - 300 Labs and 66 DEC (DEC-drug endangered children)

[3] House Bill 512 was historic legislation designed to address a pressing public safety and public health issue in Mississippi-the production and use of crystal methamphetamine. MBN received support from Governor Haley Barbour, Lt Governor Phil Bryant, Leadership in the Mississippi State Senate and the Mississippi House of Representatives, MS Department of Human Services, Child Advocacy Centers, Judges, MS Prosecutors Association, Mississippi Chiefs of Police, Mississippi Sheriffs Association, the Mississippi Independent Pharmacy Association, the Mississippi State Medical Association, and many others. MBN wants to thank each for their contribution to the successful passage of HB 512.



STATE OF MISSISSIPPI
HALEY BARBOUR, GOVERNOR
DEPARTMENT OF PUBLIC SAFETY
ALBERT SANTA CRUZ, COMMISSIONER
BUREAU OF NARCOTICS
MARSHALL FISHER, DIRECTOR

Wednesday, March 2, 2011

FOR IMMEDIATE RELEASE

Contact: Delores Sims Lewis, 601-371-3691 or 601-573-1375

Mississippi sets standard for combating meth labs

The head of the Mississippi Bureau of Narcotics says the state's eight-month old law banning over-the-counter sales of cold and allergy medicines containing pseudoephedrine, the main ingredient used to illegally produce methamphetamine, continues to be effective.

MBN Director Marshall Fisher says:

■ “MBN figures show a nearly 70 percent reduction in meth-related cases statewide. Officers seized 203 meth labs from July 2010 to February 2011, a 67 percent reduction from the 607 meth labs seized from July 2009 to February 2010.

“Twenty-four children were removed from meth lab sites from July 2010 to February 2011, which is an 83 percent reduction from the 141 children removed from meth lab sites from July 2009 to February 2010.

■ “When the MBN encounters pseudoephedrine in connection with a meth lab now, it has been purchased in a bordering state. Suspects are crossing state lines to purchase pseudoephedrine, bringing it back to meth cooks in Mississippi and trading it for meth or selling the pills for \$50 to \$100 per box.

“Some organized groups or “crews” are recruited strictly to buy pseudoephedrine pills. This criminal enterprise, known as “smurfing,” actually has been enhanced as an unintended consequence of electronic monitoring and laws limiting sales of cold and allergy medicine containing pseudoephedrine. Authorities in states like Kentucky report that electronic tracking simply is not working.

“In recent months, MBN conducted meth operations with authorities in Alabama, Arkansas, Louisiana and Tennessee that led to 36 meth-related arrests and four meth lab seizures, as well as the rescue of three drug-endangered children.

-more-



STATE OF MISSISSIPPI
HALEY BARBOUR, GOVERNOR
DEPARTMENT OF PUBLIC SAFETY
ALBERT SANTA CRUZ, COMMISSIONER
BUREAU OF NARCOTICS
MARSHALL FISHER, DIRECTOR

■ “Following Mississippi’s example, 10 states — Arkansas, California, Indiana, Kansas, Kentucky, Nevada, Oklahoma, Tennessee, Virginia and West Virginia — have filed bills to restrict the availability of pseudoephedrine. And six others — Alabama, Arizona, Colorado, Georgia, Missouri and Washington — have similar bills pending.

“It is obvious that Mississippi’s success has led other states to seriously consider prescription-only pseudoephedrine legislation. The folks that fought it here have gone to other states and implied that Mississippi’s success is due to reduced meth enforcement. That is false information designed to hide the truth: Prescription-only legislation works. While these misleading tactics work, children continue to suffer and die.

■ “Meanwhile, federal funds administered by the U.S. Drug Enforcement Administration in past years have helped to defray costs to state and local agencies for meth-lab cleanup, which involves the handling and disposal of hazardous materials. Funding has been halted due to federal budgetary constraints, and the Obama administration’s proposed budget does not include a request for continued funding.

“The cost to clean up a small lab is \$2,000 to \$5,000 just for hazardous material removal. For a large lab, the cost can be as much as \$25,000. Fortunately, because of the positive results Mississippi has enjoyed pursuant to passage of House Bill 512 the costs to our state and our taxpayers will be much smaller.”

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