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Controlling Methamphetamine Precursors: The View from the Trenches

Executive Summary

Prepared for
the National Institute of Justice

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EXECUTIVE SUMMARY: CONTROLLING METHAMPHETAMINE PRECURSORS: THE VIEW FROM THE TRENCHES

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Purpose

This paper reports on key informant (KI) and focus group interviews exploring the relationships between methamphetamine small toxic lab (STL) seizures and related activity, and methamphetamine precursor laws. The primary purposes of the KI and focus group interviews were to: 1) examine KIs' perceptions of the impact of their state's precursor laws; 2) explore KIs' perceptions of the organizational and procedural facilitators and barriers to successful implementation of the law(s); and 3) evaluate KIs' perceptions of the relative importance of various precursor law provisions. Research questions included: 1) What were KIs' perceptions of the impact of their state's precursor laws?; and 2) What were KIs' perceptions of the organizational and procedural facilitators and barriers to the successful development and implementation of the law in their state?

Methodology

State Selection. State selection drew upon available state-level data regarding the extent of methamphetamine STL seizures and extant state and Federal legal frameworks attempting to reduce the availability of methamphetamine precursors. States were also considered based on consumers' degree of access to pseudoephedrine (PSE) products. The states selected for the interviews included:

- 1) *INDIANA* – mid-western state with a high number of STL seizures; no controlled substances scheduling requirements; no centralized tracking system for PSE purchases
- 2) *KENTUCKY* – southern state with high number of STL seizures; no controlled substance scheduling requirements; pharmacy sales only; no centralized tracking system.
- 3) *MISSOURI* – mid-western state with highest number of STL seizures in nation; Schedule V (pharmacy sales only) controlled substance requirements; no centralized tracking system.
- 4) *OKLAHOMA* – southwestern state with formerly high rates of STL seizures but dramatic reduction in rates; Schedule V controlled substance requirements; centralized tracking system in place.
- 5) *OREGON* – western state with formerly high rates of STL seizures but virtual elimination of all labs in state; Schedule III (physician prescription only) controlled substance requirements; no centralized tracking system in place.

Within each of the five states identified above, specific counties with the highest concentrations of methamphetamine STLs and related indicators were identified based on media accounts, Drug Enforcement Administration (DEA) outcome data, and recommendations from El Paso Intelligence Center (EPIC) and National Alliance for Drug Endangered Children (DEC) staff.

Key Informant Description and Selection. Key informant interviews and focus groups were conducted with the following four major stakeholder groups:

1. Law enforcement: composed of local, regional, and state law enforcement personnel, including local narcotics officers, county sheriffs, state troopers and narcotics officers, prosecuting and district attorneys, and several regional DEA taskforce coordinators.
2. State policy makers: comprised of at least two state legislators for each state of focus; generally the primary house and senate sponsors of the bill.
3. Local, independent pharmacy owners and operators who were working in stores that sold pseudoephedrine products. Several interviews were also conducted with state pharmacy trade association representatives or state pharmacy board officers to better understand the regional and state issues that emerged as their state's laws was/were being formulated, implemented, and enforced.
4. Representatives from each targeted state's DEC taskforces or other intervention group, and were generally from the law enforcement community.

Using the media search process described above, KIs were identified within each county who had been heavily quoted by the media as knowledgeable about methamphetamine issues. A snowball sampling methodology (also called chain referral sampling) was utilized to identify potential interview subjects in the case study communities that had higher state concentrations of methamphetamine labs, child seizures, or other related indicators.

Interview Process. Between July 2006 and March 2007, seventy-seven individuals were interviewed across all five states using either an individual or focus group interview format. Interviews were conducted using a semi-structured interview guide that included opportunity to explore other key themes as they emerged. All participants completed Institutional Review Board-approved interview consent forms prior to the initiation of the KI or focus group interviews.

Analysis. Reliable coding procedures were established using the constant comparative analytic coding method based on a Node and Tree structure approach. Open coding was used to confirm and elaborate on preliminary themes and key word categories, resulting in the development of a final analytic codebook with coding definitions reviewed by the entire research team for validity. Using the qualitative software package *QDA Miner*, research assistants independently read and completely coded two interviews using axial coding and then worked to reconcile differences between codes. Areas of continued disagreement were reconciled by the study's co-investigator on an as-needed basis. Inter-rater reliability varied between approximately 75-90% throughout the coding process.

Content analysis was completed and key themes and issues that were discussed in the interviews were summarized. Interviews of a similar type (e.g., local law enforcement practitioners) were reviewed and integrated within and across specific codebook themes. Final state reports were based on integration and summary of these key themes, with frequent illustrations of the themes using quotes from the KIs.

Findings

Consistent with qualitative research in general, it should be noted that findings in this report represent the perceptions of the limited number of individuals who were interviewed for this project. As such, the perceptions were not based on a representative sample of all law enforcement officials, law makers, or pharmacists in the state. In addition, interview statements do not necessarily reflect official opinions of the organizations represented by those individuals. Finally, these interviews reflect specific point-in-time reflections on the part of the interviewees and, as such, may not represent the state's precursor law(s) at the time it was enacted or at the time of the interview.

Although the coding categories are the same across all five states, this report features specific profiles of each state, along with details and quotations from KIs that are unique to each state's precursor law and other related variables. Details regarding each state, including brief histories and descriptions of the state's precursor law, can be read in the separate qualitative state reports; this executive summary only attempts to present issues that some or all of the states had in common, as well as significant variations that help underscore the relationship between the laws and reductions in STL seizures. Additionally, space constraints prevented inclusion of individual quotes within this executive summary. Significant quotations and illustrations can be found throughout the individual state reports.

Nature of STL Problem in the State. Legislators, law enforcement personnel, and pharmacists in all states described the devastating impact of STL-based methamphetamine in relationship to law enforcement, safety, and health. Law enforcement officials in all counties described an overwhelming focus on STLs and methamphetamine-related issues, often to the exclusion of other law enforcement duties. This included a high percentage of prosecutions for methamphetamine-related activities and large and rapidly growing portions of corrections budgets used to address these issues. Concerns about hazardous materials also ranked high in the minds of law enforcement personnel. Although some states had received Federal government assistance with some lab cleanup, the costs and consequences to the environment and surrounding community were substantial. Law enforcement officials noted additional concerns around the safety of the environment when officers were required to raid and dismantle STLs. In addition, law enforcement officials noted ongoing concerns about safety in relation to crime and drugs.

One of the most consistent points noted by all KIs was the perceived impact on children. Key informants noted that methamphetamine was often produced in home environments where children were playing within the room where the methamphetamine was produced or in the yard where toxic chemicals were stored or dumped. Virtually all of the comments from the DEC focus group revolved around these issues and details on their perceptions can be read in the section that summarizes this focus group.

Due to space constraints, readers can refer to individual state reports to gain an understanding of the states' primary sources of meth, common lab locations and cooking methods, typical precursors and reagents used in the cooking process, methods used in obtaining precursor and reagents (primarily smurfing¹ and theft), primary characteristics of meth cooks and users, and primary characteristics of meth cooks and users. The discussions regarding each of these categories was remarkably consistent across the selected states.

¹ The term 'smurfing' refers to individuals who travel from store to store, purchasing their legal limit of PSE products at each retailer.

Barriers to Development of Precursor Laws. Most of the resistance described by KIs in the study states to the development of strong precursor laws came primarily from either the pharmaceutical or consumer retail industries. Lobbyists from the pharmaceutical companies created strong resistance in many state legislatures but, once the law was enacted, removed their resistance when they developed the new cold medicine formulation based on phenylephrine (also known as PE). In another sign of reduced resistance, several large chain pharmacies also voluntarily moved PSE products behind the counter in stores across the nation.

Strong resistance also came from the retail industry, particularly from lobbies representing small convenience stores. In some states the retail industry worried about the hassles and difficulties of compliance, while in several states this resistance was linked to gas stations with convenience stores that were selling large volumes of PSE products.

Resistance was generally overcome through significant and highly publicized events, such as the killing of State Trooper Nicky Green in Oklahoma, or through strong education efforts and collaboration across multiple interest groups, generally in strong partnership with determined law makers and state and local law enforcement organizations.

Interestingly, after some initial resistance on the part of a few people, the public in each of the states was generally supportive of the law because they understood the consequences of methamphetamine STLs and use in their communities.

Perceived Effectiveness and Impact of Precursor Laws. Although states varied in the extent to which STLs had been reduced, every KI who was interviewed for this project – from law enforcement personnel to policy makers to pharmacists - agreed that the states' methamphetamine precursor laws had had some impact on reductions in the number of meth STLs in their counties and communities. Key informants generally believed the impact of their law directly related to the reduced harms from environmental hazards, fewer children in toxic settings, and reduced lab clean up costs.

In some states, like Oregon and Oklahoma, this reduction had been immediate and dramatic. In the rest of the states, the reductions had been significant but not as large. Based on an initial consideration of the differences in reductions between these states, one possible explanation may relate to: 1) degree of access to PSE products, and 2) degree of tracking and monitoring of PSE purchases within the state. Relative to degree of access, Oregon and Oklahoma had the most restrictive provisions in their laws (at the time of the interviews), requiring either a Schedule III (physician prescription only) or Schedule V (pharmacy purchase only) state controlled substance regulation. These states saw the greatest reductions in meth labs, with Oregon reporting virtually no methamphetamine STL seizures within the state throughout most of 2006 and all of 2007, and Oklahoma reporting 80-90% reductions in their STL seizures since implementation of their law. On the other hand, Indiana and Kentucky, which did not require any scheduling of PSE products, experienced much less dramatic reductions in their STL seizure rates.

Relative to tracking and monitoring purchases of PSE products, Oklahoma had also implemented a state-wide, real-time tracking system so pharmacists could electronically track, and law enforcement personnel could monitor, PSE purchases across the state. This dramatically reduced smurfing behaviors of methamphetamine addicts and cooks. Although Missouri had also enacted Schedule V regulations, they did not yet have a state-based electronic tracking system, thereby allowing smurfers (sometimes moving from store to store in small groups) more opportunities to purchase their legal limit of PSE products without being caught by law

enforcement officers and pharmacists. Neither Indiana nor Kentucky had state-based, real-time tracking systems in place, although both states had counties that were experimenting with such systems. Several web-based monitoring systems were also described by KIs in several counties in the hope that these systems could be adopted in their state or county.

Pharmacists appeared to have been the most negatively impacted by the laws. In most states, there was an increase in paperwork, along with the hassles of dealing with irritated customers who had reduced access to PSE products. This was particularly true in Oregon, where a physician prescription was required to gain access to these products. Pharmacists and some customers were also sometimes frustrated by the relative ineffectiveness of the more convenient over-the-counter cold medicine products that do not contain PSE.

When asked about unintended consequences from the precursor laws in their states, with the exception of the generally minor inconvenience caused to customers who wished to have quick and ready access to PSE products, those interviewed generally perceived virtually no negative unintended consequences from their state's precursor law. One partially anticipated change noted by law enforcement officials was a shift in drug distribution and use patterns as a result of meth STL reductions. Most noted that crystal methamphetamine, or ice, had filled the vacuum left by reductions in the supply of STL-produced meth, while others had observed increased distribution and use of other drugs including cocaine, heroin, and marijuana.

Ironically, one of the major concerns about the elimination of the meth STLs was the potential for reductions in funding for methamphetamine-related issues or reductions in collaborative activities between groups that had come together around the methamphetamine crisis in their community. For example, some law enforcement teams were concerned that their funds for lab raids would be eliminated because they now had so few labs to take down and others described significant budget reductions that had already taken place in their counties.

It is interesting to note that none of the KIs believed that the reduction or even elimination of meth labs would significantly impact, or was currently impacting the overall methamphetamine use rates in the state. Such concerns are important because the influence of drugs on families goes beyond the impact caused by meth labs. Children are in danger in homes and locations where drugs are present, whether STLs or homes of drug-abusing parents and relatives. Parents who use or distribute drugs often create an atmosphere of danger to children, including exposure to those who use or deal drugs, leaving drugs in the reach of children, and neglecting nutritional and emotional needs of children. However, there was no measurable data to support these perceptions. Both law enforcement officials and policymakers believed that the level of imported crystal methamphetamine that was available or being brought into their state would more than make up for any meth that was reduced due to reductions in STLs.

Most Effective Elements of the Precursor Laws. In all states, perhaps the most obvious but critical factor in the effectiveness of the precursor law was that it restricted access to PSE products. The degree to which this was more or less successful appeared to be the driving factor behind reductions in STL. This conclusion also appears to be consistent with the quantitative findings conducted for this study.

Although KIs across all groups spoke, at one time or another, about every element of their law as being important to a greater or lesser degree, the primary focus of most KIs was on: 1) the placement/location of PSE products (behind the counter); 2) the log book, and, 3) having to show some form of identification.

Placement of PSE products behind pharmacy counters was perhaps considered to be most effective, particularly in Oregon, where physician prescriptions were required, and in Oklahoma, where electronic monitoring was strong. Product placement appeared to be less effective in states without comprehensive monitoring systems.

Requiring customers to sign a logbook and show identification were both perceived by most KIs to be a deterrent against purchasing large quantities of PSE products since methamphetamine users and cooks were worried about being identified and caught. As noted above, in states where electronic monitoring was not present, smurfers often moved easily from store to store, across counties, and even across state lines, moving to the areas with the weakest laws or the lowest levels of monitoring.

Although the majority of KIs in each state did not believe that increased penalties for PSE sales or possession served as a deterrent to people either producing or using methamphetamine, they did believe that it offered prosecutors a chance to build their case against a meth producer or dealer across a number of different types of infractions and purchases. The majority of KIs believed it was impossible to arrest their way out of the methamphetamine problem, rather believing that a strong combination of drug treatment and education were the primary ways to reduce continued drug problems.

When asked their impressions of how the Federal Combat Methamphetamine Epidemic Act (CMEA) might impact their state's law, both legislators and law enforcement officials believed that the Federal law would not have a strong impact in their state because their state already had stronger requirements in place. Since the CMEA did not pre-empt their tougher state laws, most states perceived the main benefit as setting minimal standards for surrounding states that bordered their own state. As a result, the law was perceived as having reduced smurfing behaviors across state borders.

Lessons Learned and Recommendations for States

Each state had a variety of lessons learned and recommendations, colored by the unique components of their law and a wide variety of other factors. Readers are referred to each state summary for details regarding these points. However, there were a surprising number of lessons and recommendations that crossed all state boundaries. This section will focus on those lessons and recommendations that were common to most or all states.

1. Recognize the progress made in reducing harms associated with STLs and continue to work toward the elimination of all labs

As mentioned earlier, virtually every pharmacist, law enforcement official and legislator recognized that there were major public safety and health benefits to reductions in STLs. They consistently noted that there were fewer drug endangered children, lower community costs from the clean-up of toxic sites and less risk to law enforcement and first responders entering an STL site.

2. Develop an electronic, real-time, state-based reporting system

The most common recommendation was for an electronic state-based reporting system that allowed for real-time tracking of PSE purchases. Such a system would allow retailers and pharmacists to know when a customer's last purchase had been made and would alert them to customers who had purchased over their legal limit. This system would also allow

law enforcement personnel to track and follow up on PSE purchasers who attempted to violate the law. Several states believed this would work best if centralized through the state's pharmacy board, particularly if Schedule V regulations were in place. Officials in Oregon noted that this system was not necessary with Schedule III regulations.

3. Strengthen communication between law enforcement and pharmacies

Until a real-time electronic tracking system is put in place, pharmacists and law enforcement officials both recognized the need to increase collaboration and communication around PSE purchases. While this existed at some levels in some communities, these relationships were inconsistent at best and non-existent at worst. In some cases, law enforcement officials noted that pharmacists called or emailed other pharmacists to ask whether a smurfer had recently purchased PSE products in their store, but those contacts were informal, inconsistent, and based on the relationships that individual pharmacists had with each other.

4. Work with neighboring states to adopt tighter restrictions on PSE products to eliminate smurfing

Key informants in all states described smurfing behaviors across state lines. This sometimes created tense relationships between state officials since meth cooks living near the border of one state often obtained and sometimes cooked their meth in neighboring states, resulting in an influx of meth labs in those states. At the time of our interviews, most states had not yet implemented Federal CMEA provisions for a significant period of time. Lawmakers and legislators were in favor of working with legislators and law enforcement personnel in neighboring states in order to strengthen their PSE laws and develop better cross-border monitoring standards.

5. Develop more treatment options to help addicts overcome addiction

Acknowledging that it was impossible to incarcerate their way out of the methamphetamine problem, both law enforcement personnel and legislators agreed that treatment and education were the primary ways to reduce continuing drug problems. There appeared to be active drug courts in several states which legislators and law enforcement personnel saw as a viable alternative to incarceration that provided drug treatment and monitoring with lower costs and more support combined with strong sanctions and clear treatment expectations for the addict.

6. Develop and/or continue collaborative relationships with all major stakeholders

Key informants described a variety of collaborative partnerships between pharmacists, child welfare agencies, media organizations, and various community groups, often through the creation of meth taskforces. These collaborations had developed to increase communication, improve knowledge about methamphetamine effects in the community, and elicit cooperation between agencies. Law enforcement personnel also worked with county and local officials to develop education campaigns for schools, retailers, and pharmacists. They also developed partnerships with social service agencies around children found at STL sites. Much of this work also involved education of the media as well as educational sessions about the dangers of methamphetamine with local business, schools, and any other groups who cared to listen. As noted earlier, a number of KIs worried that funds for such

collaboratives either were, or would soon be cut due to reductions in STL seizures and resulting perceptions on the part of law makers that the problem was eliminated and therefore deserved funding cuts.

7. Work with Federal government officials to reduce importation of crystal methamphetamine
States with rural borders and easy transportation routes contributed to easy access points for importation of crystal methamphetamine. Both legislators and law enforcement officials expressed concerns about these issues and recommended that the Federal government do more to monitor and reduce drug trafficking along international borders and train law enforcement personnel how to identify and deal with suspected drug traffickers.

Recommendations for Drug Endangered Children Coalitions

Because recommendations from the Drug Endangered Children report are unique to that group, they are presented here as well as in greater detail in the DEC section within the main body of the qualitative report.

1. Develop and/or maintain state DEC associations in all states, focusing on dissemination of training information regarding drug-endangered children to all first responders and law enforcement personnel directly involved in interactions with children in drug use settings.
2. Develop and maintain standardized state-level data tracking and monitoring systems between law enforcement, child welfare agencies, health agencies, etc. so accurate data can be used to guide training, resource allocation, and policy-making efforts. Oregon appears to have established and maintained such a system.
3. Develop state-level needs assessment programs with standardized measurement instruments and centralized reporting systems to ensure timely and accurate information regarding all aspects of child-related methamphetamine problems and responses. Oregon appears to be a model in this area.
4. State DEC organizations may wish to consider partnering with their states' drug/narcotics control agencies to develop and/or refine the states' methamphetamine precursor laws to include provisions addressing the needs of drug endangered children. The National Alliance of Model State Drug Laws tracks such legal activities and may be a useful resource in this process.
5. Develop active coalitions and common legislative agendas with other groups that are concerned about children's drug use issues in order to provide leadership, leverage influence and maintain funding for drug-endangered children's issues. Re-focusing policy makers' attention on child abuse and neglect may be one way to maintain these collaborations as the number of small toxic labs is reduced in states.

6. Maintain and expand active partnerships with state and local law enforcement authorities, child protective service agencies, medical and other children's services to provide improved training and advocacy for drug-endangered children in all drug use settings.

Study Limitations

1. The descriptions, discussions, lessons learned, and recommendations represent the perceptions of the limited number of individuals who were interviewed for this project. As such, the perceptions were not based on a representative sample of all law enforcement officials, law makers, and pharmacists in the state.
2. Only five states were represented in this project. While this represents a reasonable range of perspectives on precursor law effectiveness based on variances in geography, PSE provisions, scheduling restrictions, and monitoring activities, it is not inclusive of all states with precursor laws.
3. The study did not include states with no state-level precursor laws. A number of states were recently required to adopt provisions found in the Federal CMEA, but we did not select those states for inclusion in our interviews.
4. Interviews were collected at only one point in time, thus limiting understanding of how perceptions of the laws, and sometimes the laws themselves, changed over time.

Conclusions

Despite the limitations of this project, we believe that we were able to select a strong group of states, counties, and KIs to explore the impact of those states' methamphetamine precursor laws. Consistently, across all states and interview groups, KIs agreed that harms from meth-related STLs had been greatly reduced in their states through a combination of similar, but sometimes differently implemented, precursor laws. Reductions in toxic chemical exposure and cleanup, child seizures at lab sites, and dangerous lab environments were greatly reduced in all states. The magnitude of these reductions appeared to be directly connected to level of access to PSE products and ability to monitor and track PSE purchases in a real-time, or at least timely, manner.

We believe the results of this study will provide policy makers and researchers with a complex picture of state and local efforts to control methamphetamine precursors and reagents. In combination with related quantitative findings available elsewhere,² we believe our results will be useful to policy makers, law enforcement officials, and even pharmacists who are attempting to understand, strengthen, and perhaps replicate effective precursor law provisions in their own states.

² McBride, D.C., Terry-McElrath, Y.M., Chiqui, J.F., O'Connor, J.C., & VanderWaal, C.J. (2007). The relationship between state methamphetamine precursor laws and trends in small toxic lab (STL) seizures. Report presented to the National Institute of Justice. Berrien Springs, MI: Andrews University.

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