

**STATEMENT OF MARSHALL FISHER
EXECUTIVE DIRECTOR
MISSISSIPPI BUREAU OF NARCOTICS**

**BEFORE THE
SUBCOMMITTEE ON HEALTHCARE, DISTRICT OF
COLUMBIA, CENSUS AND THE NATIONAL
ARCHIVES
UNITED STATES HOUSE OF REPRESENTATIVES**

**ENTITLED
“THE STATUS OF METHAMPHETAMINE:
MISSISSIPPI’S EXPERIENCE MAKING
PSEUDOEPHEDRINE PRESCRIPTION ONLY”**

JULY 24, 2012

Introduction

In 2005, Mississippi passed several new laws designed to curb the increase in production and use of crystal methamphetamine in Mississippi. House Bill 605 restricted access to pseudoephedrine by limiting the amount an individual could purchase or possess; and Senate Bill 2235 made precursor drug or chemical possession evidence of intent to manufacture methamphetamine. Unfortunately, these laws were not effective. After an initial decline, individuals easily adapted by purchasing the legal allowable amount of products at one retail outlet, followed by successive purchases at other stores using multiple buyers and multiple forms of identification. This practice is known in street vernacular as “smurfing.”

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

- Over 713 methamphetamine labs; the highest ever recorded in the state.
- 129 drug endangered children in Mississippi, many of whom were taken into state child protection services; some of whom were physically and sexually abused.
- Methamphetamine-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 methamphetamine related.

These statistics indicate that the 2005 legislation did not work. The MBN and other interested groups questioned: “How will the State of Mississippi battle the growing methamphetamine problem with declining revenues?”

In trying to answer that question, MBN considered the use of electronic tracking logs to monitor purchases, but determined that all electronic logs have two major flaws:

- First, electronic logs require the expenditure of concentrated, costly law enforcement resources in order to establish the logs in real time, to monitor and investigate leads, and to take down methamphetamine production organizations. The cost of implementing an electronic log system would not significantly offset the costs of methamphetamine abuse, such as the clean-up of lab sites, societal costs of caring for endangered children, mental health services for methamphetamine users, and the cost of prosecution and incarceration.
- Second, individuals know how to adapt to electronic logs—electronic tracking does *not* block false identifications and does not stop the multiple numbers of smurfers--thus rendering electronic logs ineffective.

The methamphetamine epidemic is truly unnecessary and self-created. Electronic tracking of pseudoephedrine purchases is and will continue to be a failure. States that have adopted electronic logs and behind-the-counter approaches have noted that methamphetamine lab activity has actually dramatically increased. Exemplary evidence of the myth of the success

of electronic tracking can be seen in Kentucky. Despite the fact that electronic tracking has been underway there for several years, the number of labs in Kentucky is steadily increasing. I heard one obviously uninformed officer, a supporter of electronic tracking, claim that he cares about his officers, and wants to ensure they have the best tools to do their job. Such tools as electronic logs will not be necessary, however, if pseudoephedrine is scheduled.

The simple truth is that the only way to stop methamphetamine labs is to more effectively control access to the main precursor chemicals: pseudoephedrine and ephedrine. An increase in law enforcement resources dedicated to that purpose, however, was considered unrealistic in lean budget years. We in law enforcement want to eliminate methamphetamine labs. Our budgets and manpower, however, simply will not allow us to continue to track pseudoephedrine purchases or follow addicts around, nor do we want to. Moreover, the federal lab clean-up program is dismantling and is not likely to return, leaving to the states the additional responsibility of funding lab clean-up.

OVERVIEW

After analyzing the various issues related to decades of methamphetamine production in Mississippi and the United States, the Mississippi Bureau of Narcotics, with full support of the Governor of the State of Mississippi, determined that the only answer was to schedule pseudoephedrine and ephedrine.

In the 2010 Mississippi legislative session, both bodies of the Mississippi legislature passed House Bill 512 by an overwhelming majority. The bill created a prescription requirement for pseudoephedrine, replacing the requirements for over-the-counter purchases, which consisted of providing identification and signing logs - electronic or manual. Although the matter was somewhat controversial among certain members of our legislature, we educated our members in the halls of the capitol and other venues, and were able to answer their questions and correct the misinformation that the pharmaceutical industry had provided in furthering their own agenda, which was to increase their profits. A host of lobbyists descended on Mississippi to convince both the public and the legislature that potential consequences--such as skyrocketing Medicaid costs, and elderly citizens and children of soccer moms being denied cold and allergy medicine--were valid reasons to oppose the prescription requirement. Pharmaceutical industry lobbyists continued to provide misleading and false information to lawmakers and the public right up until the final vote. Contrary to the misleading representations by the pharmaceutical industry, doctors and other prescribers in the medical community say none of this has occurred. In fact, Medicaid officials recently indicated that the passage of House Bill 512 has had no effect on Medicaid costs because the program already required a prescription for reimbursement of pseudoephedrine product purchases.

Two years after the passage of this landmark legislation, the number of methamphetamine incidents in Mississippi is down more than 70 percent. The number of actual methamphetamine labs in Mississippi is down more than 90 percent. Hinds County, Mississippi, Judge William Skinner, who routinely removes children from the custody of drug-addicted parents, has stated that he has never had one methamphetamine-addicted parent petition the Court to reclaim custody of their children: not one. So perhaps the most important statistic is that the number of drug endangered children removed from methamphetamine labs in Mississippi is down nearly 80 percent.

Since this law went into effect in July 2010, our state narcotic agents are no longer chasing, seizing, and prosecuting the tremendous number of labs, which created a severe drain on manpower and resources. They are now able to focus their efforts and resources on wide-ranging narcotics investigations. The small “one-pot” methamphetamine labs now found in Mississippi are typically generated by addicts supporting their habit. Sending addicts to prison is like painting your house when it is on fire; it does not solve the problem. While we still have some labs in Mississippi, we have seen a drastic reduction in their numbers and size, and the only thing Mississippi did differently was to schedule pseudoephedrine.

There have been recent representations claiming that the number of labs in Mississippi is virtually the same as in Alabama; however, that statement is untrue and misleading. Alabama authorities have reported that they are no longer responding to methamphetamine labs because the federal government is no longer paying to clean up the labs. In addition, although some of our bordering states are refusing to sell precursor drugs and chemicals to Mississippi residents, the precursors we are seeing are *all* coming from our neighboring states. We believe if all four of our bordering states were to schedule pseudoephedrine, methamphetamine labs would be eliminated almost entirely in Mississippi. As a law enforcement officer with more than three decades of experience, twenty-nine years of which has been in narcotics, the scheduling of pseudoephedrine in Mississippi may be our most effective piece of law enforcement legislation in the last 30 years. Our officers do not deserve to be exposed to the dangerous chemicals found at these hazardous waste sites that once housed methamphetamine labs. Our citizens and our children do not deserve it either.

I can only hope that our nation is able to get a grasp on this problem and that we pursue the only viable solution, which is to schedule pseudoephedrine on a national level. We cannot and will not arrest ourselves out of this self-created public health issue.

CONCLUSION

The state of Mississippi enacted “prescription only” legislation that went into effect in July 2010. In that two year period Mississippi has seen a remarkable 70% reduction in methamphetamine incidents (546 total incidents in the first two quarters of 2010, compared to 162 incidents in the first two quarters of 2012) and a 93% reduction in actual methamphetamine labs (252 actual methamphetamine labs in the first two quarters of 2010, compared to 17 in the first two quarters of 2012). These numbers speak for themselves. The supporters of prescription-only legislation wanted to do the right thing: adequately support law enforcement, protect children, and preserve public safety. There is no middle ground when it comes to methamphetamine labs; you are either for methamphetamine labs or against them. Electronic tracking is and continues to be a Trojan horse. Prescription only legislation is not just the right choice to achieve these goals on a national level, it is the only legitimate choice.

Director's Bio

Marshall L. Fisher



Marshall L. Fisher was appointed director of the Mississippi Bureau of Narcotics in June 2005 by Governor Haley Barbour. In January 2012 Director Fisher was reappointed by Governor Phil Bryant. He previously retired from the Drug Enforcement Administration where he was assigned as Agent in Charge of Mississippi DEA operations. During his tenure with DEA, Marshall was assigned to field offices in Texas, Kansas, Kentucky, and DEA Headquarters where he served as Section Chief in the Office of Domestic Operations to Europe, Asia, Africa and Canada. Prior to that, he was a probation and parole officer in Louisiana and a police officer in Tyler, Texas. Marshall is a U.S. Navy veteran and a graduate of the University of Memphis. Director Fisher is a member and former Chair of the Gulf Coast HIDTA Executive Board and the Regional Counterdrug Training Academy Advisory Board in Meridian. Marshall currently serves as a member of the International Association of Chiefs of Police Narcotics and Dangerous Drugs committee. Marshall and his wife, Thelma, have two children, Grady and Shane, both of whom work in federal law enforcement.