

United States Senate

WASHINGTON, DC 20510

March 23, 2015

The Honorable Patti B. Saris
Chair
United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500
Washington, DC 20002-8002

Dear Chief Judge Saris:

We write to urge the Sentencing Commission to increase penalties for drug offenders who candy or flavor a drug to appeal to minors.

For years, law enforcement has seen drug dealers flavor and market their illegal drugs to entice minors, using techniques like combining drugs with chocolate and fruit flavors, and even packaging them to look like actual candy or soda. Because this deceptive conduct is so harmful to minors, we ask that the Commission increase the guidelines range by at least 2 offense levels for a person who manufactures or distributes a candied or flavored drug knowing, or having reasonable cause to believe, that the drug product will be distributed to a minor.

Law enforcement officers attest that the practice of candying or flavoring drugs represents a significant problem in our communities. In October 2014, a captain in the Drugs and Vice Division of an Oregon police department told Senator Feinstein's office that he "routinely encounter[s]" ecstasy; it is "often found packaged with cartoon characters on the labeling[,] shaped in pacifier form[,] or with the outline of various animals stamped [on the] drug when in pill form."¹ He continued that "[c]andy' bracelets of MDMA [ecstasy] are also common. Various unique colors of pills are also frequently encountered with the *clear intent to market and make the drug appealing to the young.*"²

¹ E-mail from Captain Mark Kruger, Portland Police Bureau's Drugs and Vice Division (Oct. 1, 2014) (on file with the Office of Sen. Dianne Feinstein).

² *Id.* (emphasis added).

Candying or flavoring drugs to appeal to minors is prevalent because the best way to create a life-long customer is to hook that person when he or she is young. This practice deceives the young customer into believing that he or she is not actually ingesting drugs, or at least not ingesting drugs that are as potent as non-flavored drugs. According to an Indiana sheriff quoted in a 2007 article entitled “Fruity Meth Aimed at Kids,” flavoring a drug like methamphetamine makes it “more attractive to teens, because it takes away meth’s normally bitter taste, and some dealers will tell potential users this meth is safer, and has less side effects.”³

In October 2014, a narcotics team member in an Oregon sheriff’s office told Senator Feinstein’s office that he frequently encounters gummy bears laced with Xanax. The “only customers are juveniles,” according to the officer. He noted that if a youth gets hooked, he will become a regular customer.⁴ Similarly, after a March 2008 Drug Enforcement Administration (DEA) seizure of flavored cocaine near Modesto, California valued at \$272,400, one DEA agent aptly stated that “[a]ttempting to lure new, younger customers to a dangerous drug by adding candy ‘flavors’ is an unconscionable marketing technique.”⁵

These are just a few examples of candied or flavored drugs being distributed in our communities and endangering our youth. We have attached a list of 33 reported incidents involving candied or flavored drugs, which undoubtedly represents only a small percentage of all incidents involving these drugs.

The Commission must act because current federal drug laws provide an insufficient deterrent to individuals who candy or flavor drugs to appeal to minors. Currently, there is no enhanced penalty for such conduct. While the current enhanced penalty for a person who distributes a controlled substance to a person under 21 years of age is important, it does not reflect the additional harm caused by a person who manufactures or distributes a candied or flavored drug. Such a person engages in an inherently deceptive and dangerous practice—trading in a product that has been manufactured to appeal to kids and to disguise the product’s nature as a drug product (or at least to make the product look less potent than

³ Kim Dacey, “Fruity Meth Aimed at Kids,” *14 News NBC* (July 18, 2007), <http://www.14news.com/story/6675364/fruity-meth-aimed-at-kids>.

⁴ Telephone Conversation with Sgt. Chris Schweigert, Washington County (Oregon) Sheriff’s Office (Oct. 16, 2014).

⁵ Press Release, U.S. Drug Enforcement Admin., Designer Cocaine-Candy Flavored Drug Seized in Undercover Investigation (Mar. 10, 2008), <http://www.justice.gov/dea/divisions/sf/2008/sanfran031008p.html>.

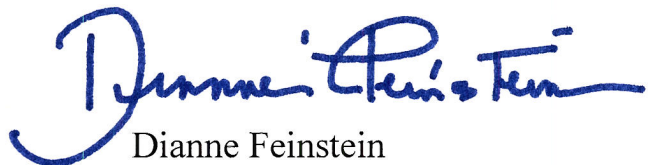
comparable drugs). The increased risk that a young person will ingest these drug products amply justifies an increased penalty for the offender.

Because of the urgent need to address this problem, on March 12th, we re-introduced legislation to increase penalties for persons who candy or flavor a drug to appeal to minors (S. 724, the “Protecting Kids from Candy-Flavored Drugs Act”). Many of the leading national law enforcement and anti-drug organizations support this bill: the Fraternal Order of Police, the National District Attorneys Association, the Community Anti-Drug Coalitions of America, the Federal Law Enforcement Officers Association, and the National High Intensity Drug Trafficking Area (HIDTA) Directors’ Association. The individuals that these organizations represent are on the front lines working to keep these drugs out of our communities.

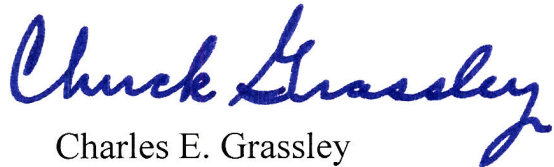
However, there is no need for the Commission to wait for Congress to act before addressing this serious problem. We urge the Commission to take action by increasing the guidelines range by at least 2 offense levels for a person who manufactures or distributes a candied or flavored drug knowing, or having reasonable cause to believe, that the drug product will be distributed to a minor.

Thank you for your consideration of this important issue.

Sincerely,



Dianne Feinstein
United States Senator



Charles E. Grassley
United States Senator

Enclosure

Recent Incidents of Flavored/Candy Drugs

- **Arizona:** An October 2009 article explains that drug dealers flavor drugs because “[they] know that in order to keep a strong sales base they have to attract kids before they reach 21 years of age. After that, if the kids aren’t already hooked, they are not as likely to get involved with using and abusing.”⁶
- **Arkansas:** A May 2007 article describes how Arkansas police officers are discovering packets of “Strawberry Quick,” a strawberry-flavored children’s drink mix that is being called “the latest version of methamphetamine.” The article quotes a Drug Enforcement Administration official stating that, “by changing the color or the taste or just giving [the drug] a less-intimidating name, [traffickers] are trying to make it seem less dangerous and lure this new customer base.”⁷
- **California:** In January 2013, the Drug Enforcement Administration seized plastic bottles of THC-laden soft drinks from two phony medical marijuana dispensaries that grossed an estimated \$3.5 million annually. The products seized included bottles labeled “7 High,” “Dr. Feelgood,” “Laughing Lemonade,” “Rasta Berry Iced Tea,” “Danktopia,” “Orange Cush,” “Root Buzz,” and “Marijuana Dank.” There were cookies and brownies labeled “White Chip Hash Brownie,” “Reese’s Crumbled Hash Brownie,” “Cannabis Creation Brownie,” “Reefers Peanut Butter Cup,” “M&M Hash Brownies,” “Reefers Peanut Butter Cup with Nuts,” “Cannabis Creation Sugar Free Cookies,” and “Cannabis Creation Cookies.” Agents also seized marijuana candy, including “Jolly Stones THC Medicated Hard Candies” and “Stone Candy.”⁸
- **California:** In March 2008, the Drug Enforcement Administration office in Modesto, California announced two arrests and the seizure of approximately 7 pounds of regular cocaine, 1½ pounds of flavored cocaine, over 2½ pounds of suspected methamphetamine, and 5 weapons. Some of the seized cocaine, which was valued at \$272,400, includes flavors such as strawberry, lemon, coconut and cinnamon. An agent stated: “Attempting to lure new, younger customers to a dangerous drug by adding candy ‘flavors’ is an unconscionable marketing technique.”⁹
- **California:** In early 2007, San Diego police made multiple seizures of strawberry flavored meth (“Strawberry Quick”), which the article described as “the latest enemy to

⁶ *Meth Coalition Wants Parents To Ask, Is It Jewelry, Candy Or...Drugs?*, PAYSON ROUNDUP (Oct. 10, 2009), http://www.paysonroundup.com/news/2009/oct/10/meth_coalition_wants_parents_ask_it_jewelry_candy/.

⁷ Jon Gambrell, *Meth Makers Target First Time Users with ‘Strawberry Quick’*, ASSOCIATED PRESS (May 1, 2007), <http://www.policeone.com/drug-interdiction-narcotics/articles/1241823-Meth-makers-target-first-time-users-with-Strawberry-Quick/>.

⁸ Press Release, U.S. Drug Enforcement Admin., San Diego Man is Sentenced to 100 Months for Running Marijuana Dispensary and Money Laundering (Jan. 24, 2013), <http://www.justice.gov/dea/divisions/sd/2013/sd012413.shtml>.

⁹ Press Release, U.S. Drug Enforcement Admin., Designer Cocaine-Candy Flavored Drug Seized in Undercover Investigation (Mar. 10, 2008), <http://www.justice.gov/dea/divisions/sf/2008/sanfran031008p.html>.

emerge in the war on drugs.” A Drug Enforcement Administration official was quoted stating that flavoring drugs is a “marketing tool aimed to get younger new users.”¹⁰

- **California:** A DEA bulletin reported that, in February 2007, teenagers in central and northern California were abusing red, cherry-flavored methamphetamine, called “go-fast,” and that some teenagers purchased this drug from Hispanic gang members in Stockton and Sacramento.¹¹
- **California:** In June 2007, narcotics agents in Yolo County arrested six people after confiscating three pounds of strawberry and coconut-flavored cocaine. The article noted that drug enforcement agencies believe that flavoring drugs is a “marketing tool to lure younger customers.”¹²
- **Colorado:** In October 2014, Denver Police warned individuals about the danger of Halloween candies containing marijuana. Apples, gummy bears, and other edible products are being infused with marijuana. A 7-year old girl was hospitalized after accidentally eating marijuana candy, and a teenager who ate a bar of “pot-laced chocolate” fell ill.¹³
- **Colorado:** In October 2014, a small Colorado Springs-based producer of marijuana edibles, TinctureBelle, agreed to cease manufacturing edibles that resembled “Reese’s”, “Almond Joy”, and “Heath,” as part of a settlement with The Hershey Company. Hershey said TinctureBelle’s products harmed their brand name and could be confused for regular candy by children.¹⁴
- **Colorado:** In August 2014, more than half a dozen people said they were given free samples of marijuana edibles at the Denver County Fair when they thought they were getting cookies, brownies and chocolate without THC, the principal psychoactive chemical in marijuana.¹⁵

¹⁰ Kristina Davis, *Flavored Meth Aims to Addict New Users*, SAN DIEGO UNION-TRIB. (Apr. 7, 2007), http://www.utsandiego.com/uniontrib/20070407/news_1n7pinkmeth.html.

¹¹ U.S. DEP’T OF JUSTICE, NAT’L DRUG INTELLIGENCE CTR., NATIONAL METHAMPHETAMINE THREAT ASSESSMENT 2008: STRATEGIC FINDINGS (Dec. 2007), *available at* <http://www.justice.gov/archive/ndic/pubs26/26594/strat.htm#start>.

¹² *Fruit-Flavored Cocaine Joins the Trend in Flavored Drugs*, FOX NEWS (June 28, 2007), <http://www.foxnews.com/story/2007/06/28/fruit-flavored-cocaine-joins-trend-in-flavored-drugs/>.

¹³ *Treat or Nasty Trick? Denver Police Warn of Pot-Tainted Candy*, FOX NEWS (Oct. 17, 2014), <http://www.foxnews.com/health/2014/10/17/treat-or-nasty-trick-denver-police-warn-pot-tainted-candy/>.

¹⁴ David Migoya, *Colorado Springs Edibles Firm Settles Suit Over Hershey Look-Alike Candy*, THE DENVER POST BUS. (Oct. 16, 2014, 4:03 PM), http://www.denverpost.com/business/ci_26741590/colo-springs-edibles-firm-settles-suit-over-hershey.

¹⁵ Meta Pettus, *Police Seize Marijuana-laced Candy in Maryland*, USA TODAY (Nov. 1 2014, 10:25 AM), <http://www.usatoday.com/story/news/nation/2014/10/31/marijuana-candy/18259109/>.

- **Colorado:** In March 2008, police arrested two people for possession with intent to manufacture “Smurf” and “cotton candy”, which are forms of methamphetamines. A 15-year-old boy was also in the house where the suspects were arrested, leading to additional charges of child abuse.¹⁶
- **Florida:** In January 2015, police arrested a 22-year old man for candy laced with THC. A police officer was quoted as stating that the THC-laced candy ““looks just like candy and packaged like candy. It’s attractive to young consumers.””¹⁷
- **Illinois:** In October 2014, 24-year old Matthew Tarantino failed to pick up a piece of sweet-and-sour candy laced with ecstasy that he dropped on the floor while dividing drugs intended for distribution. Afterwards, a 2-year old child ate the ecstasy-laced candy and had to be hospitalized. Tarantino was sentenced to 4 years in prison.¹⁸
- **Illinois:** In March 2013, Chicago police warned parents about a drug that looks and smells like candy, called “strawberry quick” or “strawberry meth.” Because of the drug’s similarity to candy, police urged parents to tell their children not to take candy from anyone, even a classmate.¹⁹
- **Indiana:** In February 2014, state troopers found candy laced with THC that looked just like “normal suckers, hard-rock candies, gummy bears, and gummy worms.” The THC level found in some of the candies was greater than the level found in a marijuana joint. An official is quoted as stating the concern that “people will be consuming [these candies] who are unaware of that [high THC] content and will be surprised and not prepared for the impact of the THC on their system.”²⁰
- **Indiana:** A July 2007 article describes how police across the country are noticing a “new type of meth,” made with different colors and flavors, like strawberry. The new flavored meth is “more attractive to teens,” according to a local sheriff, “because it takes away meth’s normally bitter taste, and some dealers will tell potential users this meth is safer, and has less side effects.”²¹

¹⁶ Mike Peters, *Two Busted With Recipes for Smurf and Cotton Candy Meth*, GREELEY TRIB. (Mar. 27, 2008), <http://www.greeleytribune.com/article/20080327/NEWS/839142175>.

¹⁷ Jennifer Titus, *Florida Parents on Alert About Candy Laced with Pot*, 13 WMAZ (Jan. 14, 2015, 12:12 PM), <http://www.13wmaz.com/story/news/2015/01/14/fla-parents-on-alert-about-candy-laced-with-pot/21751577/>.

¹⁸ Michael Smothers, *Pekin Man Who Dropped Drug-laced Candy Eaten by Child Gets Four Years*, JOURNAL STAR (Oct. 30, 2014, 10:17 PM), <http://www.pjstar.com/article/20141030/News/141039901/?Start=1>.

¹⁹ *Police Warn Parents About Strawberry Meth*, ABC 7 LOCAL (Mar. 13, 2012, 8:50 PM), <http://abclocal.go.com/wls/story?section=news/local&id=8580213>.

²⁰ Liz Gelardi, *State Police Find Drug Laced Candy, Issue Warning for Parents*, FOX 59 NEWS (Feb. 13, 2014, 5:07 PM), <http://fox59.com/2014/02/13/state-police-find-drug-laced-candy-issue-warning-for-parents/>.

²¹ Kim Dacey, *Fruity Meth Aimed at Kids*, 14 NEWS NBC (July 18, 2007), <http://www.14news.com/story/6675364/fruity-meth-aimed-at-kids>.

- **Iowa:** In October 2014, Police in Knoxville warned parents to inspect their children's Halloween candy after the Mid Iowa Narcotics Enforcement Task Force recovered marijuana laced candy and brownies in the area. The police reported that the marijuana candy and brownies were commercially prepared and packaged in Colorado and illegally brought into Iowa.²²
- **Kentucky:** A June 2007 article describes how "Strawberry Quick," a form of methamphetamine, looks and tastes a lot like the candy known as "pop rocks" and is "aimed at kids."²³
- **Maryland:** In October 2014, Maryland county police seized several varieties and boxes of marijuana-infused candies the week of Halloween.²⁴
- **Minnesota:** In October 2014, the Buffalo Ridge Drug Task Force described to our office how they purchased and seized marijuana suckers in January 2014. These suckers appear to be lollipops, as they are wrapped in aluminum and contain a stick.²⁵
- **Minnesota:** In October 2007, police arrested a 14-year-old girl for handing out methamphetamine at her school during lunch. One student described the drug as "a piece of candy." The girl distributing the drug and at least five other teens ingested the drug, landing them all in the hospital.²⁶
- **Missouri:** In October 2014, the Southwest Missouri task force intercepted marijuana-laced candy in Pineville, Missouri. Barry County Sheriff Mick Epperly is quoted as describing the danger posed by these drug products as follows: "It could lead into other drugs and you take a young child that gets a hold of this it could be very dangerous to them and have many side effects."²⁷
- **Missouri:** A March 2007 USA Today article describes how reports of candy-flavored methamphetamine are "emerging around the nation," causing concern that "drug dealers are marketing the drug to younger people."²⁸

²² Aaron Hepker, *Police Warn Parents to Check Halloween Candy for Marijuana Edibles*, WHOTV.Com (Oct. 16, 2014), <http://whotv.com/2014/10/16/police-warn-parents-to-check-halloween-candy-for-marijuana-edibles>.

²³ Shayla Reaves, *Flavored Meth Makes Inroads with Pre-Teens*, WAVE 3 NEWS (Jun. 20, 2007), <http://www.wave3.com/story/6687733/flavored-meth-makes-inroads-with-pre-teens>.

²⁴ Meta Pettus, *Police Seize Marijuana-laced Candy in Maryland*, USA TODAY (Nov. 1 2014, 10:25 AM), <http://www.usatoday.com/story/news/nation/2014/10/31/marijuana-candy/18259109/>.

²⁵ E-mail from the Buffalo Ridge Drug Task Force (Nobles, Pipestone, and Murray Counties) to Jonathan Thessin, Office of Sen. Dianne Feinstein (Oct. 20, 2014).

²⁶ Mara Gottfried, *Meth Shared at School Lunch*, ST. PAUL PIONEER PRESS (Oct. 2, 2007, 12:01 AM), http://www.twincities.com/ci_7064104.

²⁷ *Marijuana Laced Candy Intercepted in Joplin from Colorado*, KOAM (Oct. 16, 2014, 1:09 PM), <http://www.koamtv.com/story/23552736/marijuana-laced-candy-intercepted-in-joplin-from-colorado>.

²⁸ Donna Leinwand, *DEA: Flavored Meth Use on the Rise*, USA TODAY (Mar. 25, 2007, 9:34 PM), http://usatoday30.usatoday.com/news/nation/2007-03-25-flavored-meth_N.htm.

- **New Mexico:** In December 2014, a middle school student was found inhaling ground-up drug smarties at school.²⁹
- **Oregon:** In October 2014, a narcotics team member in an Oregon sheriff's office told our office that he frequently encounters gummy bears laced with Xanax. The "only customers are juveniles," according to the officer. He noted that if a youth gets hooked, he will become a regular customer.³⁰
- **Oregon:** In October 2014, a member of the Drugs and Vice Division of an Oregon police department e-mailed our office: "Ecstasy, MDMA, Molly is routinely encountered. The drug is often found packaged with cartoon characters on the labeling and is often shaped in pacifier form or with the outline of various animals stamped in drug when in pill form. "Candy" bracelets of MDMA are also common. Various unique colors of pills are also frequently encountered with the clear intent to market and make the drug appealing to the young."³¹
- **Pennsylvania:** In October 2013, police seized 40 pounds of drug-laced candy from a campus apartment at West Chester University. Prosecutors said the candies were laced with THC and came in many shapes, sizes, and colors.³²
- **Pennsylvania:** A December 2007 article describes how drug dealers are targeting kids with an expanding arsenal of products, including strawberry- and coconut-flavored methamphetamine. In addition to flavoring meth, dealers are injecting gumballs and gummy bear candy with concentrated hash oil for students to chew on during school.³³
- **Rhode Island:** In March 2014, in two separate incidences, two 14-year old students were arrested for hiding drugs in hard candies. In one instance, the student was arrested with a brown hard candy that tested positive for methamphetamine. In the other instance, a student was arrested after giving another student hard candy laced with marijuana.³⁴

²⁹ Josiah Ryan, *Seventh-Grader Accused of Snorting Candy will Reportedly Have Drug Possession as Part of his Permanent School Record*, THE BLAZE (Dec. 2, 2014, 6:03 PM), <http://www.theblaze.com/stories/2014/12/02/seventh-grader-accused-of-snorting-candy-will-reportedly-have-drug-possession-as-part-of-his-permanent-school-record/>.

³⁰ Telephone Conversation with Sgt. Chris Schweigert, Washington County (Oregon) Sheriff's Office (Oct. 16, 2014).

³¹ E-mail from Captain Mark Kruger of Portland Police Bureau's Drugs and Vice Division (Oct. 1, 2014).

³² Dan Stamm and Davis Chang, *Drug-Laced Candy Bust at Local College*, NBC 10 NEWS (Oct. 29, 2013, 5:58 AM), <http://www.nbcphiladelphia.com/news/local/Weed-Candy-Bust-229562731.html>; *see also Drug-Laced Candy Cache Seized by Pennsylvania Police Days Before Halloween*, HUFFINGTON POST (Oct. 29, 2013, 11:10 AM), http://www.huffingtonpost.com/2013/10/29/drug-laced-candy-seized_n_4173339.html.

³³ Chris Togneri, *Drug Experts Teach Area Safety Officials*, PITTSBURGH TRIB.-REV. (Dec. 3, 2007), http://triblive.com/x/pittsburghtrib/news/regional/s_540859.html#axzz2bDiIm4L1.

³⁴ Chris Raia, *Drugs Found in Hard Candies; Two 14-Year-Olds Arrested*, WPRI EYEWITNESS NEWS (Apr. 7, 2014, 11:35 AM), <http://wpri.com/2014/04/07/drugs-found-in-hard-candies-in-schools-prompt-police-investigation/>.

- **Virginia:** In April 2008, strawberry flavored methamphetamine was seized in Galax, located in Southwest Virginia.³⁵
- **West Virginia:** In October 2014, a member of the Metro Drug Unit in Charleston, West Virginia purchased a “gummy bear”, which was coated with liquid “Molly”.³⁶
- **Washington/Alaska:** In May 2014, authorities arrested two men suspected of trafficking cocaine, heroin, and meth disguised as “commercially made chocolates.”³⁷
- **Wisconsin:** In December 2014, a 26-year old man was sentenced to three years in prison for selling marijuana-laced chocolate bars. During his arrest, police seized more than 11 pounds of marijuana and 10 chocolate bars with marijuana inside, which were valued at \$88,000. Police arrested the man and another person after receiving a tip that the two were transporting large amounts of marijuana from Colorado.³⁸

³⁵ ‘Candy Cocaine’ – New Flavor Adds Intensity to Drug War, BLUEFIELD DAILY TELEGRAPH (Apr. 10, 2008), <http://bdtonline.com/editorials/x519519762/-Candy-cocaine-New-flavor-adds-intensity-to-drug-war>.

³⁶ E-mail from Lt. Chad Napier of the Metro Drug Unit from Charleston Police Dep’t (Oct. 20, 2014).

³⁷ Daniel Arkin, *Cops Arrest Two Men Accused of Disguising Drugs as Candy*, NBC NEWS (May 28, 2014, 4:46 PM), <http://www.nbcnews.com/news/us-news/cops-arrest-two-men-accused-disguising-drugs-candy-n116731>.

³⁸ Karen Madden, *Man Gets Three Years for Drug-laced Candy Bars*, WISCONSIN RAPIDS TRIB. (Dec. 8, 2014, 6:26 PM) <http://www.wisconsinrapidstribune.com/story/news/crime/2014/12/08/aaron-keuntjes-sentenced-drug-laced-candy-bars/20116885/>.