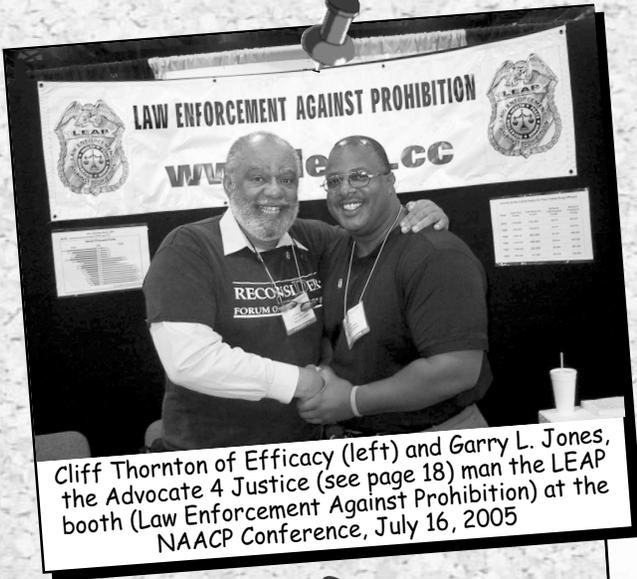
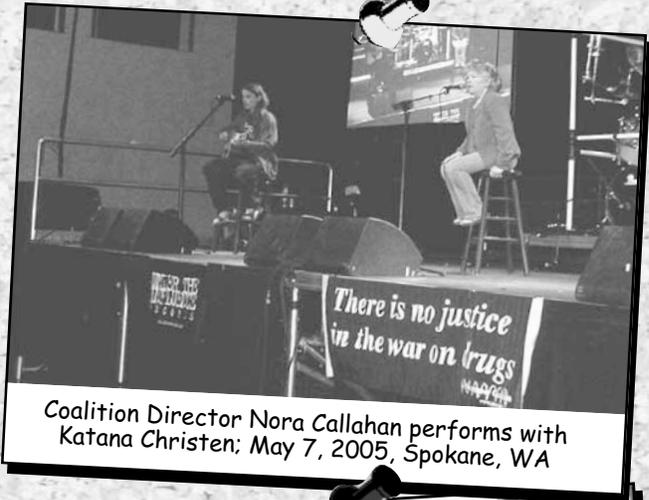


The November Coalition

Local Scenes



Cliff Thornton of Efficacy (left) and Garry L. Jones, the Advocate 4 Justice (see page 18) man the LEAP booth (Law Enforcement Against Prohibition) at the NAACP Conference, July 16, 2005

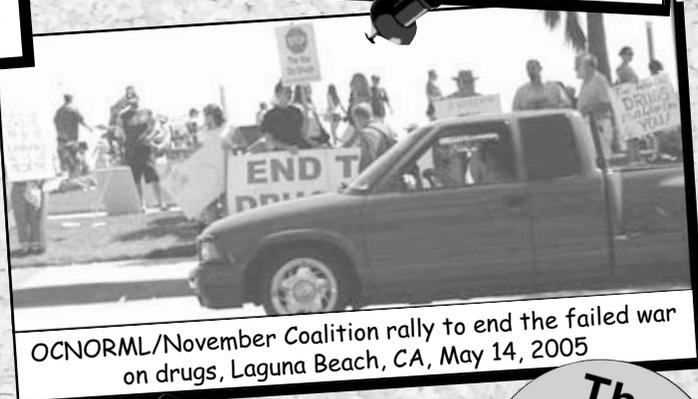


Coalition Director Nora Callahan performs with Katana Christen; May 7, 2005, Spokane, WA

Two Million is Too Many!

March on Washington, DC
See page 2

Across America on horseback
See page 3



OCNORML/November Coalition rally to end the failed war on drugs, Laguna Beach, CA, May 14, 2005

3000 Miles

Bicycle Journey For Justice
See back cover

The War on Pain Patients
See page 14

Parole Bill Introduced!
See page 6

Grassroots march against mass imprisonment aims at Washington, DC

By PHIL SMITH, EDITOR OF *THE DRUG WAR CHRONICLE* (WWW.STOPTHEDRUGWAR.ORG)

They are coming from Alabama and Florida, Georgia and North Carolina. They are coming from Massachusetts and New York and Connecticut. They are coming from Texas and Colorado and as far west as California and Washington State. They are friends and family members of the more than two million people imprisoned in the United States. They are black, white, and brown. They are small-town activists, nationwide networks, and members of the grassroots sprouting up from the cracks in the prison walls. And they are all heading for Washington, DC, on August 13 as part of a nationwide "Journey for Justice" for America's prisoners and their loved ones.

The March is energized by opposition to the mindless grinding of the US criminal justice machine, which leads the world in putting its citizens behind bars. March organizers say it will demand an end to mass incarceration as social policy, the return of the vote to people who have done their time, an end to the physical abuse and neglect that is endemic even though hidden by high walls of official silence. They are also demanding an end to the war on drugs, under which nearly half a million Americans now rot for years in prisons for "crimes" that had no victim.

The notion that the time is right for a national march to demand redress for the crimes committed against individuals and communities — most often poor and minority — by the criminal justice system had its genesis in the homegrown activism of Montgomery, Alabama, radio personality Roberta Franklin. Responding to her own experiences as well as the voices of her listeners, who complained bitterly about the Alabama criminal justice system and the state's notorious prison conditions, Franklin formed a local group called Family and Friends of People Incarcerated (FFPI). When 3,000 people marching under the FFPI banner took to the streets of Montgomery last year, the idea of replicating that protest in the nation's capital took root.

"I'm from Montgomery, the home of the grassroots social justice movement," said Franklin. "This is where Rosa Parks refused to go to the back of the bus, and this is where we start saying no more to all these harsh prison

sentences. After that march here in Montgomery, I thought it was time for a national march. I mortgaged my house, and other people are making sacrifices, too. We don't have any grant money, but we do have more people coming on board all the time, and we're raising money however we can. We've got women doing fish fries," she told *DRCNet*.



Roberta Franklin speaks out
Montgomery, Alabama

The November Coalition, an organization devoted to freeing the prisoners of the drug war, is one group that heeded the call. "We're going to be there," said Coalition head Nora Callahan, from the group's office across the country in Colville, Washington. "I wouldn't miss it for the world. There are lots of grassroots groups coming together on this — more people than the drug reform movement ever brought together. These are people and groups who have been working on state and local issues, but who are ready to go to Washington DC because they understand that if they want their states to change, they need the federal government to stop being so threatening," she told *DRCNet*.

"There is a deep sense that the problem lies at the top of the national political structure, and that means Washington, DC," Callahan continued. "In the states, where legislators are accountable and have to hold to their budgets, they are finding it impossible to continue down this path of mass incarceration, but in DC, it is as if budget constraints don't exist. Who is holding back change? It's the feds. When the Supreme Court threw out the sentencing guidelines in the *Blakely* and *Booker* cases, that decision resounded with thousands of people all over the country. Now Congress is responding with crummy legislation, and that is mobilizing a lot of people who want to march on Washington."

Critical Resistance, a national group devoted to abolishing the prison-industrial complex, was also quick to endorse the March. "We have long been involved in supporting the work led by the people most affected by our nation's prison policies," said Zein El-Amine of the group's DC chapter. "In this case, the people leading the March are actually families and friends of prisoners. I don't remember any time in recent history when there has been a mobilization like this in the nation's capital. This

FMI DC March Agenda

Welcome Reception

Friday, August 12, 2005, Washington, DC
5:30 to 8:30 PM

City Hall: The Mayor John A. Wilson Building
1350 Pennsylvania Ave NW, 1st Floor Foyer
Washington, DC 20004

Speakers, refreshments, music and entertainment; greetings from City Official of Washington DC and more. Displays and brochures will be available. Screening: *Torture Inc — Americas Brutal Prisons*; from *UK Channel 4*, Great Britain

The Family Members and Friends of People Incarcerated (FMI) March on DC

Saturday, August 13, 2005, Washington, DC,
9:00 AM to 2:00 PM

Lafayette Park (N Side of the White House)

Speakers, music and more! Over a hundred grassroots groups have signed on. Entertainment featuring The Exciting Corinthians of Alabama, The Crofters and Peter Love.

is a real grassroots movement," he told *DRCNet*.

For Critical Resistance, the war on drugs is a key part of the broader resort to mass incarceration. "Everyone knows the war on drugs is a failure," said El-Amine. "We have had mandatory minimums; we have had three-strike sentences; we have half a million drug offenders behind bars. But every time the American people are given the chance to vote, they have chosen drug treatment over the dead end of incarceration. We have seen that in California, Arizona, and other places, including right here in DC, where a measure to divert drug users into treatment instead of prison passed with 78% of the vote. But our mayor, Anthony Williams, has it tied up in court. The war on drugs is a really important issue to DC, and the people voted one way and the officials are resisting these progressive measures."

Critical Resistance DC is doing what it can to pump up attendance, said El-Amine. "We are mainly going to events where we think people will be open to the March and setting up tables and passing out flyers. Our resources are very limited, but we're doing the best we can and will be working with the March's DC host committee."

CONTINUED ON PAGE 3

"I'll be there, and everyone who can go should be there," said Loretta Nall of the US Marijuana Party, herself an Alabama activist who worked with Franklin on last year's Montgomery march. "We marched in Montgomery because Alabama's prisons are at 214% of capacity, the guards are overworked and underpaid, and the health care is nonexistent. The state responds by creating a new prison task force—although they've already done those two or three times. We know what the answers are. If you don't change the drug laws, you'll just keep those prisons full."

Again, it's personal. "I have friends and family members in prison," Nall told *DRCNet*. "It's inhumane to lock people in cages with violent criminals for smoking a joint. It's just insane. That's one reason I'm going to Washington, DC."

Nall is emblematic of the nascent and tentative relationship between the drug reform movement, its marijuana component in particular, and the broader, largely minority-based local, grassroots movements to ease the nation's harsh criminal justice policies. The large national marijuana advocacy groups, such as the Marijuana Policy Project and the National Organization for Reform of Marijuana Laws, have been silent on the August march. But that may be because no one has asked them about it. Representatives of both groups told *DRCNet* this week they had not been approached by March organizers.

For many marijuana activists, said Nall, it is a learning curve. "When people first become involved with us, it's about marijuana," she said. "But then they start to focus on what the drug laws do and most people realize it's much broader than just pot; it's a whole system that needs to be destroyed and rebuilt."

Not all drug reform organizations are staying away from the march. Students for Sensible Drug Policy, while mainly focused on campus-related drug policy issues, have signed on as a March endorser. "Students are tired of attending mediocre schools that could be improved with the valuable public resources that are instead being used to construct more and more prisons to lock up more and more nonviolent drug offenders," said SSDP communications director Tom Angell. "The government should prioritize education over incarceration," he told *DRCNet*.

The Women's Organization for National Prohibition Reform is another reform group that has picked up the gauntlet. "Women are the fastest growing, least violent segment of the prison population. Women are losing their children and families and communities are being destroyed by these harsh drug laws that make people responsible for drug crimes and conspiracies when they aren't really responsible at all," said Jean Marlowe, the group's cofounder and executive director.

"We are marching for the 6.5 million children in this country who have a parent in prison in jail or on parole or probation. That's why we think this March is important," she told *DRCNet*. "When children are abused in the name of war on drugs, when they are taken from their homes and ripped from their families to grow up with no sense of security, it's time for women to step up and say these policies will change."

For WONPR's Marlowe, who did time in the federal prison system, her activism is a promise kept. "When I left the Alderson prison camp, I promised those women I would give them and their children a voice, I promised them that I would let people know how outrageous these drugs laws are. I wish I could have brought them all home with me, but all I can give them is my word; so here I am."

"Not all wisdom resides in Washington, and grassroots leadership around the country deserves to be encouraged," said Eric Sterling, head of the Criminal Justice Policy Foundation, who will address the March in Washington. "I am completely sympathetic to the issues that Roberta and others are organizing around and I'm looking forward to the March on August 13. I'm encouraging everyone to come and bring their colleagues," he told *DRCNet*.

Jenny Smith of Texas knows the agony of having a family member behind bars, too, and as is the case many others involved, it is that personal experience with the criminal justice system that is fueling her activism. Her mentally disturbed 20-year-old son is in prison in Florida, where both his mental and his physical problems go untreated, she told *DRCNet*. "I went to see him in jail there, and you wouldn't believe it. He's got a serious untreated injury and they don't fix it. He needs mental health treatment, but they don't even want to acknowledge he has a problem. I couldn't do anything but cry when I saw him," she said.

Like others involved in the march, Smith is doing what she can to ensure that she is not alone. "When I went to see my son, I took 150 flyers about the March and plastered them on gas stations and convenience stores along I-10 from Texas to Florida," she said. In a low budget, grassroots campaign like the Journey for Justice, what Smith did needs to be multiplied a thousand times. We will know on August 13 whether it succeeded.

Visit the *The Family Members and Friends of People Incarcerated (FMI) March on DC website at www.journeyforjustice.org*

Paul Revere rides again A historic journey across America

Howard Wooldridge, a retired police detective from Fort Worth, Texas, is riding horseback from Los Angeles to New York City to raise awareness that US drug policy is a "public policy disaster".



Since his retirement in 1994, Wooldridge has become a bi-lingual speaker for the drug-policy reform movement, advocating an end to all drug prohibition. In 2003 he became a lobbyist in the Texas legislature, where he and others were able to help pass a bill that mandates no jail time for individuals arrested for personal amounts of any illegal drug.

Currently, he has joined forces with 44 other current and former members of law enforcement in 30 states, to form the organization known as LEAP: Law Enforcement Against Prohibition.

Founded in 2002, LEAP is a non profit organization whose members believe that existing drug policies have failed in their intended goals of addressing the problems of crime, drug abuse, addiction, juvenile drug use, stopping the flow of illegal drugs into this country and the internal sale and use of illegal drugs.

Howard is backed up on the road by his wife, Norma Sapp, driving a motorhome put in their hands by the November Coalition.

According to the Long Riders Guild, no one in recorded history has ever ridden both directions across North America. The Guild selected Howard as one of the top dozen Longriders in the world. Howard flew to London on March 12, 2005 for a week, where he was honored with a weekend of events at the Royal Geographic Society Headquarters.

For more info, including regular blog entries from the road, see www.leap.cc/howard/.



The November Coalition

(Draft of a submission to be included in the *Encyclopedia of Corrections*, edited by Mary Bosworth)

BY KENNETH MENTOR, J.D., PHD, NEW MEXICO STATE UNIVERSITY

The November Coalition is a non-profit, grassroots organization that seeks to educate the public about the war on drugs.

According to their web site, the Coalition includes "a growing body of citizens whose lives have been gravely affected by our government's present drug policy. We are prisoners, parents of those incarcerated, wives, sisters, brothers, children, aunts, uncles and

cousins. Some of us are loving friends and concerned citizens, each of us alarmed that drug war casualties are rising in absolutely horrific proportions." It is one of a number of prison reform groups lobbying to rescind current federal and state laws on drugs.

What does the November Coalition Do?

Formed by survivors and victims of the drug war in 1997, the November Coalition uses real life examples to illustrate how a drug arrest can become a "frightening introduction to conspiracy statutes, government's liberal use of informants, guideline-sentencing laws, and the nightmare usually leaves defendant and family confused and full of despair." Through individual accounts, they show how long-term imprisonment has dramatic effects on personality and personal relationships. Prisoners suffer from severe restrictions on their human and constitutional rights, and all of these difficulties exact a toll on both the prisoner and those who love them.

The November Coalition seeks to rehumanize the victims of the drug war by telling their stories. This strategy reveals the damaging impact of mandatory minimum sentencing on individuals and their families. Autobiographical accounts help to demonstrate that many drug war victims are regular people, good citizens and neighbors, whose lives have been derailed by a misguided war on drugs. Some of these stories remind us that these imprisoned victims of the drug war have children who are also victimized — in part by the actions of their parent, but also due to the draconian measures used to fight drug use. Other stories share the painful stories of aging

parents who have lost their children to the war on drugs. These parents are victimized by a system that prevents children, who may face

prison for the rest of their lives, from being able to support aging parents. These stories document the disparate impact that drug policies have on different races and social classes. These stories also relay feelings about politicians who have escalated the drug war,

even though they have admitted past drug use that could have sent them to prison rather than to the White House.

The November Coalition argues that the discriminatory impact of drug policies, in which members of minority communities far outnumber whites in prison, should have been predicted. If that were not possible, then the discriminatory impacts are certainly clear to today's policymakers. According to the Coalition, drug policies have created a situation in which the most vulnerable are least able to defend against injustice. Such policies do not constitute a war on drugs; they have become a war on people. The Coalition also points out the similarities between alcohol prohibition of the 1920's and drug prohibition today. Drug

users have been dehumanized through demonizing propaganda, in particular "the crack epidemic," that dominated national media during the late 1980's.

The Coalition publishes "*The Razor Wire*" to report on drug policy reform efforts, legislative updates, and news about drug law

vigils and meetings. This publication also includes letters from prisoners and others who have been victimized by the war on drugs. The organization also publishes "*The Wall*," which is an online collection of prisoner photos and stories that document the impact of the war on drugs. "*The Razor Wire*" and "*The Wall*" can be found on the November Coalition website (www.november.org). The website also includes essays, statistics, and other information that supports efforts toward changing prisons and our views toward punishment. In addition to educating people

about the necessity of penal reform, the Coalition has demonstrated that the internet can be an effective tool for information sharing and for organizing those who share an opposition to a policy that has shaped our justice system, filled our prisons, and shaped the societies of America and many other countries.

Conclusion

The November Coalition provides an example of the effectiveness of grassroots challenges to policy. Working with limited resources, the Coalition has made great progress in their efforts to educate the public and policymakers about problems associated with "The War on Drugs." As we know, this "War" remains in force. However, as states begin to feel pressure related to prison overcrowding, they are beginning to consider alternatives to incarceration-based policies that created the problem. The November Coalition succeeds in providing an arena where prisoners' voices and stories can be heard. These stories and voices are invaluable in the effort to challenging the status quo.

Further reading

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Irwin, J., Schiraldi, V. and Ziedenberg, J. (1999). *America's One Million Nonviolent Prisoners*. Washington, DC: Justice Policy Institute.

Websites

- The November Coalition www.november.org
- Common Sense for Drug Policy www.csdp.org
- Criminal Justice Policy Foundation www.cjpf.org
- Drug Policy Alliance www.drugpolicy.org
- Journey for Justice www.journeyforjustice.org
- Media Awareness Project www.mapinc.org
- National Drug Strategy Network www.ndsn.org
- Students for Sensible Drug Policy www.ssdp.org

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This essay can be found at Dr. Mentor's website, at: www.kenmentor.com/papers/november.htm

National Organization for Women joins long march against drug war

Meeting for its annual convention in Knoxville, TN on July 1-2, 2005, the National Organization for Women approved a resolution opposing the current drug war and calling instead for an approach to drug use, abuse, and addiction that emphasizes compassion, health, and human rights. In addition, the resolution calls on NOW to educate its membership about the harms perpetrated by current drug policy and to create an ad hoc committee to develop an action plan to work for drug policy reform.

NOW is the nation's largest feminist organization, with some 500,000 contributing members and 550 local chapters. While it is best known for its defense of abortion rights, NOW is dedicated to achieving equality for women, and equal justice for all.

NOW's collective decision to take on the drug war came as a result of a careful intervention. A handful of drug reform activists — including Deborah Small of Break the Chains, Angelyn Frazer of Families Against Mandatory Minimums, Wyndi Anderson of National Advocates for Pregnant Women, and Students for Sensible Drug Policy executive director Scarlett Swerdlow — laid the groundwork for the resolution by organizing and hosting a session at the NOW convention exposing the drug war's dire consequences for women, children, broke people, and minorities.

"With Deborah's help, I was able to draft a resolution that the NOW Congress voted on," said Swerdlow in a message to supporters announcing the news. "The gist of it is that NOW has adopted a resolution opposing the war on drugs."

Thanks to good work on the ground in Knoxville, drug reform's long march just got one step shorter.

Visit NOW at www.now.org

Women's Rights — Another Casualty of the Drug War

RESOLUTION FROM THE NATIONAL ORGANIZATION FOR WOMEN

WHEREAS the incarceration rate of women convicted of low-level drug-related offenses has increased dramatically in the past decade as a result of our nation's relentless "war on drugs." Poor women and women of color have been disproportionately targeted for drug law enforcement and receive long mandatory prison sentences that have little relationship to their actions or culpability.

WHEREAS two thirds of women in prison have at least two children who are displaced as a result of their incarceration, often forced to live in the care of family, friends, or state sponsored foster care where they may be at increased risk of emotional, physical, or sexual abuse,

WHEREAS women's unique patterns of drug abuse and addiction and special treatment needs are inadequately addressed as women often turn to drugs to cope with undiagnosed or untreated mental illness, and/or the trauma of physical or sexual abuse, or other stresses particular to women,

WHEREAS the intersection of substance use and pregnancy are increasingly the focus of drug law enforcement,

WHEREAS violence against women and other circumstances specific to women's involvement in drug-related activities are often overlooked or ignored in sentencing, such as situations where women who have been emotionally, physically, or sexually abused by boyfriends or husbands involved in drug operations are dependent on these men and unlikely to turn to the authorities,

WHEREAS after incarceration women continue to bear the stigma and burden of post-conviction sanctions that constitute collateral consequences of incarceration impeding their reintegration into society, including denial of access to public housing, public assistance and food stamps, higher education aid and civic participation, effectively making them second-class citizens

THEREFORE BE IT RESOLVED, that the National Organization for Women (NOW) iterate its opposition to the War on Drugs and in its steadfast support an approach to drug abuse and addiction that promotes compassion, public health and human rights; and

AND THEREFORE BE IT FURTHER RESOLVED, that NOW educate its membership about the harms the "War on Drugs" inflicts on women using the NOW website, NOW materials and literature, and regular NOW legislative updates, including updates on pending legislation that would negatively impact women; and

BE IT FINALLY RESOLVED, that an ad hoc committee be convened to research current drug policy that has a particular impact on women and report back to the leadership and membership at the next national conference on a potential action plan to be implemented locally and nationally in conjunction with other organizations currently working towards the same objectives.



This incredible Mother's Day display was lovingly constructed by hand, from recycled paper and mimeographed photos, by incarcerated women at FPC Pekin, Illinois. The November Coalition will be taking this display to The March on Washington, DC (see page 2), The Drug Policy Alliance Conference in Long Beach, CA (see page 16) and several other events this year. Our thanks to Tobi Crossland and the women of Pekin for making this available to us.

Holding the display are Coalition staffers Tom Murlowski (left) and Jennifer Asher.



Spy Vs. Spy

BY BILL PIPER, DIRECTOR OF NATIONAL AFFAIRS FOR THE DRUG POLICY ALLIANCE

Neighbors spying on neighbors? Mothers forced to turn in their sons or daughters? These are images straight out of George Orwell's 1984, or a remote totalitarian state. We don't associate them with the land of the free and the home of the brave, but that doesn't mean they couldn't happen here. A senior congressman, James Sensenbrenner (R-WI), is working quietly but efficiently to turn the entire United States population into informants — by force.

Sensenbrenner, the US House Judiciary Committee Chairman, has introduced legislation that would essentially draft every American into the war on drugs. HR 1528, cynically named "Safe Access to Drug Treatment and Child Protection Act," would compel people to spy on their family members and neighbors, and even go undercover and wear a wire if needed. If a person resisted, he or she would face mandatory incarceration.

Here's how the "spy" section of the legislation works: If you "witness" certain drug offenses taking place or "learn" about them, you must report the offenses to law enforcement within 24 hours and provide "full assistance in the investigation, apprehension and prosecution" of the people involved. Failure to do so would be punishable by sentence of two to 10 years.

Despite growing opposition to mandatory sentences, from civil rights groups to US Supreme Court Justices, the bill eliminates federal judges' ability to give sentences below the minimum recommended by sentencing guidelines. This creates a mandatory minimum for all federal offenses, drug-related or not.

At a time when everyone from the conservative American Enterprise Institute to the liberal Sentencing Project is slamming the war on drugs as an abject failure, Sensenbrenner is trying to escalate it, and to force all Americans to become its foot soldiers. Instead of enacting new mandatory minimums, federal policymakers should look toward the states. A growing number have reformed their drug sentencing laws, including Arizona, California, Kansas, Louisiana, Maryland, New Mexico, New York and Texas, and they have proved it is possible to both save money and improve public safety.

Simply put, there is no way HR 1528 can be fixed. The only policy proposal in recent years that comes close to being as totalitarian as this bill is Operations TIPS, the Ashcroft initiative that would have encouraged — but not required — citizens to spy on one another. Congress rightfully rejected that initiative and they should do the same with HR 1528. Big Brother has no business here in America.

'No More Tulas' legislation introduced

Rep. Sheila Jackson-Lee (D-TX) has introduced HR 2620: No More Tulas — The Drug Law Enforcement Evidentiary Standards Improvement Act of 2005, placing stricter oversight and possible loss of funding on the over 700 jurisdictions (the so-called 'HIDTAs') that accept federal monies for drug task forces, and requiring more than uncorroborated testimony of lone undercover drug agents to sustain convictions.

It was named for the infamous Tula, TX drug war scandal, where 15% of the black population was rolled-up in a cocaine bust conducted by a single rogue lawman, Tom Coleman, working for a Texas drug task force. Virtually all the defendants were eventually exonerated.

Congressman Danny K. Davis calls for reviving the system of parole for federal prisoners

Washington, DC — On June 27, Congressman Danny K. Davis (D-IL) introduced a bill (HR 3072: To Revive The System Of Parole For Federal Prisoners) to reinstate federal parole. Rep. Davis stated that, "first time non-violent offenders deserve a second chance to be released from prison and become contributing and productive citizens in society." When the US Sentencing Guidelines were imposed for federal defendants whose criminal activities took place subsequent to November 1, 1987, parole was eliminated. The majority of federal inmates are non-violent drug offenders with very long sentences. Many people in prison are serving life sentences for non-violent offenses without the possibility of parole.

Ninety-seven percent of all federal inmates are eventually released. Forty-five thousand federal inmates were released last year in the United States. Presently, there are 181,000 federal detainees. The cost to house these inmates increases exponentially as they age. Total cost to US taxpayers for federal incarceration is over \$5 billion yearly. Re-entry of

mostly indigent elderly inmates is significantly affecting state budgets. After many years of incarceration, inmates tend to lose all support. Their wives and children abandon them. They lose their ability to find and keep a job because they are banned from most jobs requiring a license and have received no alternative training in prison. There is very little money allotted to the federal prison system for rehabilitation programs.

The federal parole bill Rep. Davis has introduced will save taxpayers billions of dollars over the next several years by taking mainly non-violent first time offenders out of the prison system earlier and when provided support and rehabilitation assistance they can become contributing and self-sufficient members of society.

Please urge your congresspersons to support this important legislation.

Courtesy of FedCURE
PO Box 15667, Plantation, FL 33318-5667, USA
Web Site: www.FedCURE.org
E-mail: FedCURE@FedCURE.org

Will HR 3072 exclude parole for drug law prisoners?

BY A PRISONER OF THE DRUG WAR

I reviewed the June 27, 2005 version of HR 3072, a bill to revive federal parole. My major concern is the delay that federal prosecutors or courts may cause by claiming a prisoner with ten years time served is not an "eligible prisoner" under 18 U.S.C. Sec. 4201(4). I fear this could be read to exclude every current prisoner with a conviction for the non-parolable drug laws under 21 U.S.C. § 841 and 848, and non-violent offenders with a three-strike life sentence without parole under 18 U.S.C. § 3559(c) because of prior small felonies.

THIS IS BY FAR THE BEST VERSION, AND THE MOST INCLUSIVE. I DON'T WISH TO APPEAR CRITICAL OF ANY PART OF IT. I SUPPORT IT.

This would mean only those who murder presidents and federal witnesses, defraud elderly of life savings, commit genocide, drive by shootings, kidnapping, wrecking a train, and internet child porno perverts might get one-third parole. I am sure that was not the intent. But those statutes allow parole, drug laws don't.

Here is the problem in statutory construction and interpretation:

18 U.S.C. § 4205 states: Time of eligibility for release on parole.

(a) Generally — Whenever confined and serving a definite term or terms of one year of more, a prisoner shall be eligible for release on parole after serving one-third of such term or terms on or after serving ten years of a life sentence or of a sentence of over 25 years notwithstanding any other statute to the contrary. A prisoner convicted under the law of the District of Columbia shall be subject to the guidelines used by the former District of Columbia board of parole. [underlining added to show conflict with § 4201(4).]

A mean spirited judge or prosecutor could argue that a drug law prisoner is not first an "eligible prisoner" under § 4201 definition:

(4) The term "eligible prisoner" means any federal prisoner who is eligible for parole pursuant to this title or any other Law, including any Federal prisoner whose parole has been revoked, and who is not otherwise ineligible for parole;

[Again, I added the underline emphasis to show conflict with our intent for all drug law prisoners, not

commuted from a death penalty, to be eligible for parole.]

Since 21 U.S.C. § 841(b) and § 848(a) and (b) penalty provisions explicitly and unequivocally state the defendant is not eligible for parole, a prosecutor could argue that a drug war prisoner is not first an "eligible prisoner" under 18 U.S.C. § 4201(4) because every drug law prisoner is one "who is otherwise ineligible for parole" by statute. Therefore, such a drug law prisoner cannot be under the § 4205(a)'s eligibility statute in the second place.

And, the § 4205(a) term of "notwithstanding any other statute to the contrary" only applies to the other criminal

statutes, the 1984 Sentencing Reform Act statutes on sentencing in 18 U.S.C. § 3551 et seq., and the United States Sentencing Guidelines. However, the drug laws in effect since October 27, 1986 (Anti-Drug Abuse Act) included the terms without possibility of parole, or no parole, and they are still effective even if the SRA deletion of parole is repealed by HR 3072.

THE REMEDY is one that Glenn Early previously wrote in a 1/24/04 and 4/19/04 draft in which the terms of "without possibility of parole" or "no parole" are deleted from the drug law and three-strike statutes penalty provisions, and the amendment is made retroactive.

Another remedy is simply to delete the HR 3072 version of § 4201(4)'s last eight words of "and who is otherwise ineligible for parole."

I want to highly commend Glenn Early and the folks at FedCure for all the work they did on this version of the parole bill. This is by far the best version and the most inclusive. I don't wish to appear critical of any part of it. I support it. It is just my 18 years of cynical experience with the anti-defendant judges and prosecutors who interpret statutes against us that makes me bring this matter to your attention.

In short, I believe that as long as I have a sentence under a drug law provision that states I "shall be ineligible for parole," I will never be considered for parole — until that provision is amended. At best, I would do thirty years on a nonviolent crime.

Reinstating federal parole is smart economics

COMPILED BY CHUCK ARMSBURY, RAZOR WIRE SENIOR EDITOR

As members of the House Judiciary Committee begin consideration of HR 3072, legislation to reinstate parole system for federal prisoners, auditors and other economic advisors will raise tough questions about money, as well as safety and accountability.

Some of those tough questions have to do with evaluating costs and benefits. How much money will it cost to implement a revamped parole system? Even more importantly, will there be substantial, overall savings and added income by slowing down and reversing the cancerous growth of new prison systems across the nation?

Two federal prisoners, Glenn Early and Al Battone, each did a budgetary analysis of projected savings if a parole system were to replace the current complex of mandatory minimum sentencing philosophy and laws. In April 2005, Early sent his analysis to November Coalition:

"The mathematics is rather simple. The Federal Bureau of Prisons has recently surpassed a population of 182,000 (BOP Weekly Population Report for March 31, 2005). The BOP Budget for the Fiscal Year of 2004 was \$4,677,214,000. The BOP is operating at 39 percent over capacity, according to the Bureau of Justice Statistics Bulletin, November 2004, entitled 'Prisoners in 2003.'

"If federal parole were reinstated under HR 3072, approximately 25 percent of federal prisoners would be parole-eligible within the first year of reinstatement, about 45,000 people. This projected release will reduce the capacity of the BOP to approximately 100 percent, and therefore, eliminate the need to house those paroled prisoners.

"The entire, current budget of \$2,244,005,000 earmarked for new prison construction can be eliminated. Moreover, the cost to house and care (45,000 times \$25,000 per prisoner = \$1,125,000,000) for the paroled prisoners can be deducted from the BOP budget of \$4,667,214,000.

"Based on my analysis of the cost effectiveness of having a federal parole system made available to most federal prisoners, the annual savings could possibly reach \$1.35 billion.

"An additional benefit to the government and the taxpayers are the taxes that will be paid by those 45,000 newly paroled prisoners. Using an ultra-conservative figure of \$10,000 in taxes paid per paroled person — an additional \$450 million annually can be generated for federal revenue.

"Finally, when federal prisoners start serving reduced time in prison under parole laws, they will re-join the workforce at a younger age. They will have the opportunity to pay more into the Social Security fund before they collect from it, rather than be released from prison beyond age 65 and automatically be eligible for those benefits without having helped pay into the fund."

Al Battone supplied somewhat different figures and insight in his analysis of the savings to be had by a return to a system of parole for federal prisoners:

"As a result of the BOP's prisons running at 31 percent over capacity, the prison facilities are under a tremendous strain, causing more and more breakdowns of the necessary and orderly running of the facilities, and raising expenses significantly. Other unreported costs of this strain are those of overtime paid to staff to complete repairs and to secure the overcrowding problem.

"Once US Parole is restored, the cost of building more federal prisons would be eliminated. If parole is not returned, the inflation-adjusted cost of housing and caring for a prisoner in 2013 will be \$36,570, based on data from 2003 Year-End Report on the Federal Judiciary by Chief Justice William Rehnquist. Without parole, it will cost the taxpayers billions of dollars to build, staff and supply a series of

new prisons, or about 10 new prisons each year for the foreseeable future."

Battone continues, "Let's say 50,000 federal prisoners meet the requirements of parole. At a cost of

\$30,000 per year (to house and care for the incarcerated) times 50,000 eligible in first year for release, the savings of \$1.5 billion a year should make any financial conservative excited. Additionally, the parolee would likely be required to wear an electronic monitoring bracelet, costing about \$100/month, or \$1,200/year. Revenue generated by 50,000 parolees after one year of parole's return would be about \$60 million.

"Parolees must work. Let's say these 50,000 paroled people are earning about \$20,000/year, a modest income. And assume each parolee is adding about \$6,000/year into federal income tax revenue. That's about \$300 million a year in first year of parole's reinstatement.

"Now add in an estimated \$14,000/year

spent by each parolee for rent, food, and clothing, multiply by 50,000, and there's an additional \$700 million generated within our US economy.

"Adding it all up:

"\$1.5 billion saved by not housing paroled prisoners + \$60 million raised by parolees who wear electronic monitors + \$300 million raised from income taxes paid by parolees + \$700 million spent in communities for living expenses of parolee = \$2.56 billion saved and generated each year under a new parole system.

"The estimated \$2.56 billion is a combination of savings and added income to our national economy. Add in no additional costs for new prison construction plus the hidden costs of maintaining and running prisons, and we're looking at several

billions of dollars saved and adding to our communities each year under a reinstated federal parole system."

Battone offers additional estimates of benefits to society under a restored parole system. He does similar arithmetic to show how much money would be circulated through the professional ranks of parole officials who would be monitoring parolees, about \$42 million per year.

Glenn Early and Al Battone deserve respect and congratulations for estimating the dollar-amount to be saved under a revived system of federal parole. If others question their estimates, so be it, and let the numerical contest begin. We feature their work, and others, at www.november.org.

If you've done similar numerical analysis you'd like to share with others, please send November Coalition your own estimates, corrections or other comments. Demonstrate why (or why not) that it makes economic sense to stop mass incarceration of people — supplied mostly by war on drugs' prisoners — and to build a new system of earned, early release for most federal prisoners.



What You Can Do
See page 8

"BASED ON MY ANALYSIS OF THE COST EFFECTIVENESS OF HAVING A FEDERAL PAROLE SYSTEM MADE AVAILABLE TO MOST FEDERAL PRISONERS, THE ANNUAL SAVINGS COULD POSSIBLY REACH \$1.35 BILLION." — GLENN EARLY, PRISONER OF THE WAR ON DRUGS.

New legacy of shame

According to the latest figures from the Bureau of Justice Statistics, the United States inmate population has grown by 2.3% as of mid-2004. The BJS report, *Prison and Jail Inmates at Midyear 2004*, indicated 900 new inmates per week from mid-year 2003. BJS reports that one in every 138 U.S. residents is now incarcerated.

While the crime rate has fallen over the past decade, the number of people in prison and jail is outpacing the number of inmates released, the report's co-author, Paige Harrison, told *Associated Press*. Harrison said the increase can be attributed largely to get-tough policies enacted in the 1980s and 1990s.

Petition for Relief from Drug War Injustice

In the mid 1980s Congress abolished parole and passed harsh drug sentencing laws. Many states followed, creating a ten-fold increase in the number of drug offenders incarcerated. We have lost cherished legal traditions and endured many other unintended consequences due to a destructive anti-drug policy.

It is illogical to spend tax dollars on long imprisonment when other means have proven far more effective in addressing the social problems of drug abuse and addiction. State leaders across the U.S. are reforming rigid sentencing guidelines, drug and parole policies. We urge federal leaders to do the same: Provide prisoners with an incentive to maintain exemplary behavior in prison and earn early release.

Earned, early release would foster incentives toward cooperation, study, and learning skills that would create a safer environment for staff and prisoners alike. Families could be reunited earlier, with better prospects for successful reentry into society. High costs of incarcerating drug offenders -- \$9.4 billion annually -- would be dramatically reduced. Inhumane prison overcrowding would be relieved -- the federal system is 31% over capacity, and growing more than 9% annually.

We, the undersigned, support the November Coalition's demand for relief from drug war injustice through a revival of federal parole and/or a dramatic increase in "good-time" eligibility of prisoners in federal custody.

Print Name Email Address City State Zip Phone (optional)



(509) 684-1550 • www.november.org • moreinfo@november.org

We will send regular reports of support to the US Federal Leaders, US Sentencing Commission, and media throughout the year. **Please return signed petitions to:**
The November Coalition • 282 West Astor • Colville, WA 99114

I Need Your Help!

Apparently, there is no relief for me coming from the courts, or it would have already happened, and I would have been home by now. The only realistic way for me to find relief is by changing the laws.

You see, on June 27th, 2005, United States Congressman Danny Davis of Illinois introduced "A Bill To Revive The System Of Parole For Federal Prisoners", HR 3072, in the Congress. This bill is designed to re-establish federal parole, which was taken away from federal prisoners in 1987. Without a chance at parole, I have to stay in prison for a longer time.

Here is how you can help: start by calling the United States Capitol switchboard at (202) 224-3121, tell the operator that you are in support of the Parole Bill, HR 3072, and ask for the contact information for your US Representative and your two US Senators.

Call your Representative and Senators and tell them you want them to support HR 3072, or, in the next election, you will vote for the candidate willing to support this bill. Then sit down and write them a letter. Use the samples provided at right if you need some help.

Finally, continue to collect signatures for *The Petition For Relief From Drug War Injustice* (above). The November Coalition has collected over 100,000 signatures to date, and makes sure Congress is aware of these numbers. If you need more copies, see www.november.org/parole, or contact our office at (509) 684-1550.

We must convince the members of Congress that without the system of federal parole, the entire process of incarceration is unfair. The current system destroys our families, and places too great a burden on taxpayers.

If you really want to see me come home sooner, please do this now. Only you can help change the law. You have the power — use it!

Thank you _____

Sample Letter to your United States Representative:

Dear Honorable _____:

I am writing to ask you to co-sponsor HR 3072, A Bill To Revive The System Of Parole For Federal Prisoners. The bill makes fiscal, social and moral sense.

Most of the prisoners in federal custody are non-violent drug offenders. It is illogical to spend tax dollars on long imprisonment when other means have proven far more effective in solving the social problems of drug abuse and addiction. State leaders across the U.S. are moving ahead on their own to reform failed sentencing, drug, and parole policies.

Enactment of HR 3072 would provide prisoners with an incentive to maintain exemplary behavior in prison. A humane philosophy of earned, early release would foster incentives toward cooperation, study, and learning skills that would begin creating a safer environment for staff and prisoners alike, not to mention a more successful re-entry.

With hope for the future, and families reuniting earlier, the impact and social costs of incarceration would be lessened. High costs of imprisonment -- more than \$10 billion annually for nonviolent drug offenders alone- could be dramatically reduced. Inhumane prison overcrowding would be relieved, along with the immediate need to build expensive, additional prisons.

Please co-sponsor HR 3072 to build a safer society by promoting rehabilitation, shorter incarceration times for deserving prisoners, and more appropriate use of public funds to strengthen effective social programs.

Sincerely,

(Your name and complete contact information)

Sample Telephone Call

Hello, my name is (First and Last name), and I am a constituent living in (city). I'm calling to urge you to support HR 3072, a bill to revive Federal Parole. Most of the prisoners in federal custody are non-violent drug offenders. It doesn't make economic sense to spend tax dollars on long imprisonment when cheaper means have proved far more effective in solving the social and public health problems of drug abuse and addiction.

Please co-sponsor HR 3072 to build a safer society by promoting rehabilitation, shorter incarceration times for deserving prisoners, and more appropriate use of public funds for cost-effective social programs. My phone number is (______). Thank you.

MAIL CALL



Hey, I know what you mean. The courts in California wanted to give me 27 years for selling drugs. The only reason I sold drugs was there wasn't any work, and I have four children to take care of. With no job, and with my record, they won't let me get any kind of assistance. So what's a guy to do? Well, good luck and God Bless.

Anonymous

I have just seen your website and wanted to say that it's reassuring to know that thoughtful debate on drug issues actually takes place in a country that appears to be traveling backwards sometimes. Removing this issue from the moralistic rubbish preached by both your government, and to a lesser extent mine, can only help us all. Thank you, and don't ever give up!

David Allan-Smith RN, United Kingdom



I was told that you offer information on really important issues in the war on drugs. I am in on a drug case myself. I have been in solitary confinement for more than three years. I get no visits, phone calls, or even commissary. I am also unable to work in solitary and can't support myself.

I also have no family either, and so you can assume I have no funds. So if you could help me out with your publication, I'd be very grateful to you.

Very sincerely, Wesley Hendricks

I'm currently incarcerated at Rockville Correctional Facility, sentenced to 40 years for meth on my first felony conviction. I was out on bond in another state, so that was their reasoning. I have never been in trouble before, and I'm 34 years old. This just seems extreme. Please, if there is anything you can suggest, I'm at my wit's end.

Thank you, Susan Banks

I just wanted to write to tell you to keep up the good work. Please don't stop. Please don't give up on us now. I have not seen the *Razor Wire* in awhile, and I was thinking you forgot about me or lost my address.

If anyone who reads this could help me, I'd appreciate it. I need info on how to work on my offense level 38 to get back five years on my excessive sentence. If I can't, I have 13 more years to serve in prison at age 55 now.

Sincerely, Vernal E. Malcolm

One of the big stories now in the news is about the closing down of U.S. military bases. Such action may save \$40 billion over the next 20 years. I find this interesting when compared with this nation's prison problem. Alone, federal prisons cost \$4.6 billion each year, or \$92 billion in 20 years without including inflationary increases.

Instead, why not revive Federal parole, freeing those who earn it, and save money by closing prisons instead of military bases. Who will defend this country from future terrorist attacks: prisons or military bases?

David Correa

While I was in county jail I tried to kill myself by swallowing razor blades. I did this because I was afraid to come to prison, and tried the easy way out by killing myself. All my life I've been into drugs. I sold them to help feed my family, and I did robberies so they could eat, and I could get high. I joined a gang, and it became my new family. It was all about drugs and crime.

I would like to join and receive a newspaper from you. I've been down for one year, and I've almost got my GED certificate. I'm writing a book about my life and would like to tell you about it.

Sincerely, Aaron Ames

I got the wonderful book you sent me (*Drug War Facts*) — thank you so much! I literally have people signed up and waiting in line to read it when I'm through. It should be mandatory reading for all Americans. I also made copies of the book list you suggested and sent them to several people to order some books for us here.

I am enclosing some stamps for you; all I can afford at \$5.25 a month. So here's my paycheck for the month of May.

I look forward to the next issue of *The Razor Wire*; real news is hard to get in these places.

Peace; Stephen Meyers

On March 2, 2005, I was sentenced to 10 years in federal prison. I have been incarcerated for two and one half years to date in state prison, but none of that time counts toward my new fed sentence.

I have 18 months left in state prison, and then I'll be released to the feds to start over again. My offense is drug possession/distribution of 50 grams or more of meth. Due to my prior drug charge, I was sentenced to a mandatory term of 120 months by the federal judge. I was indicted because I failed to testify in my codefendant's hearing.

I do believe this drug war is out of control. I need help, not more time. I have a 10-year-old daughter who, by the grace of God, is with my mom, a wonderful person. So in some ways I'm very lucky.

Amy Fluckiger

I recently received your last *Razor Wire* newsletter, and really enjoyed it. My question to you now is, "Can I subscribe and pay the \$6 annual prisoner membership fee with postage stamps?"

The North Carolina prison system charges \$5 for a money order, and then it's a lengthy process to get approval. It's much easier for me to come up with \$6 in stamps than pay \$5 more for a money order, and wait a long time, too.

William Derbeck

(Editor: Yes, we do take postage stamps as payment for membership. We use a lot of stamps in our mailing process, and if we get more than we can use, other grassroots' groups always need postage. We are allowed by law to sell them.)

Minnesota drug law violators under new sentencing system

After years of backpedaling, the Minnesota Legislature this session finally took a leap toward rational drug sentencing. The sentencing policy change signed by Gov. Tim Pawlenty could turn out to be monumentally important in shaping this state's future.

Why? Because the new law casts off Minnesota's old habit of locking up drug offenders for long prison stays in favor of a strategy that emphasizes thrift, community safety and enhanced public health. The new approach stems from research showing that simply incarcerating lawbreaking addicts does nothing to nudge them toward recovery before release.

That outcome is best achieved by creating incentives to propel drug offenders through treatment — a strategy known to markedly reduce recidivism among offenders who will otherwise almost certainly repeat their mistakes once they hit the streets.

Indeed, the only thing wrong with this new law is that it wasn't embraced years ago. It's expected to save nearly \$2 million a year that would otherwise be used to underwrite long prison stays for addicts in need of treatment. Over the long haul, this new approach could dampen the prevalence of addiction, the crime rate, the size of the prison population and the price of public safety. If only all legislative "reforms" could claim as much. (Source: *Minneapolis Star-Tribune*)



In memoriam

Facing prison, MMJ activist takes own life

Friends say Steven McWilliams was sick and tired. He was in pain. And he was terrified of going to prison. The combination may be the reason the medical marijuana activist and patient took his life on July 11, they say. He was 51.

"His health was deteriorating," longtime friend David Bronner told *The San Diego Union*. "And he was experiencing some lows. He was in pain, a lot of pain."

McWilliams, a former candidate for city council, was an enduring thorn in the side of the local status quo, having been in trouble with the law on numerous occasions. Most recently, facing prison after a drug conviction, the judge ruled that he must abstain from marijuana, the one medicine that gave him relief.

Informal, hidden procedures define injustice

By NORA CALLAHAN, EXECUTIVE DIRECTOR OF THE NOVEMBER COALITION



Like me, you may not be a trained legal expert, but you can still do the research I did, and draw your own conclusions.

Last November, the United States Sentencing Commission (USSC) published a report entitled, “*Fifteen Years of Guidelines Sentencing, An Assessment of How Well the Federal Criminal Justice System is Achieving the Goals of Sentencing Reform.*” Amid a stunning number of disclaimers and extra-legal phrases that admitted defeat in achieving all other objectives, the Sentencing Commission pronounced victory in the death of judicial discretion.

Missing history

The era of harsh mandatory sentencing began as a social reform movement in the early 1970’s, eventually led in Congress by Senator Edward Kennedy (D-MA). This movement identified and criticized disparate criminal sentencing around the country. Crafting new laws to correct the disparity, mostly racial and economic, was another matter entirely, and Senator Kennedy abandoned the project.

By 1984, with a different crowd in Congress, influenced by a get-tough-on-drugs movement, the effort to reform disparity turned into two rails of sentencing laws that would take prison expansion into a sprawling prison industrial complex in less than a decade. The USSC calls this era the “*Decade of Development.*”

The *Sentencing Reform Act* (SRA) was passed into law in 1984 and charged the new *US Sentencing Commission* with developing a system of *mandatory grid sentencing*. After that was accomplished, the *Guardians of the Guidelines* were to monitor the new *Sentencing Guidelines*, indeed not guides at all, but more accurately a rigid framework. Before the grids were completed, Congress added a set of harsh drug mandatory minimum laws through the *Anti-Drug Abuse Act* of 1986 (ADAA).

The SRA was intended to “inject transparency, consistency, and fairness into the sentencing process,” and the Sentencing Commission was charged with devising the *mandatory grids* and monitoring the results.

There is no history or published documents that reveal why the Commission extended the second rail of mandatory drug sentences based on quantity into “17 different levels falling below, between, and above the two amounts specified in the statutes,” for a total of 43 offense levels.

The Sentencing Commission laments the missing annals saying, “This is unfortunate for historians, because no other decision of the Commission has had such a profound impact on the federal prison population. The drug trafficking guideline that ultimately was promulgated, in combination with the relevant conduct rule, had the effect of increasing prison terms far above what had been typical in past practice, and in many cases above the level required by the literal terms of the mandatory minimum statutes.”

The USSC today, without any documented history, has to assume that “Congress intended to establish a two-tiered penalty structure for most drugs.” They admit that the ADAA was “expedited through Congress in the summer of 1986 in the wake of a number of well-publicized tragic incidents, including the overdose death of a first-round NBA draft pick, Len Bias.”

Again, and unfortunate for historians, “the legislative history of the statute is limited primarily to statements made on the House and Senate Floors.”

Severe sentencing came to the drug offender, especially to brown and black ones. The goal of a transparent legal system was lost when agencies failed to adopt or promulgate procedures that would account for monitoring the process and results — now in the hands and power of prosecutors.

The 15-year old system was put into some check with the *Booker* decision from the US Supreme Court on January 12, 2005. The US Sentencing Guidelines were

declared unconstitutional and must now be used as a guide, not a mandatory grid.

The decision limits retroactivity, however, and few federal prisoners can expect sentencing relief. Unless a prisoner is fortunate enough to have a direct appeal still alive,

retroactivity is not extended, and the new decision is now being interpreted in lower federal courts, and not yet settled.

The *Booker* case doesn’t render the ADAA’s drug-quantity table folded into the Guidelines in 1986 unconstitutional — drug defendants still face the wrath of mandatory minimum sentencing.

A prisoner who took a plea bargain isn’t factored into the Supreme Court’s decision at all — even though most that pled guilty did so under the threat built into “Guideline” mandatory sentencing. The system is still dependent on coercive tactics, and 90% of federal defendants take plea bargains rather than face two rails of sentencing, easily trumped or manipulated — and the coercion has no formal rules, and there is no way for the Commission to monitor it. Most federal prisoners today are non-violent drug offenders who were encouraged by counsel and the prosecutor to take a plea bargain.

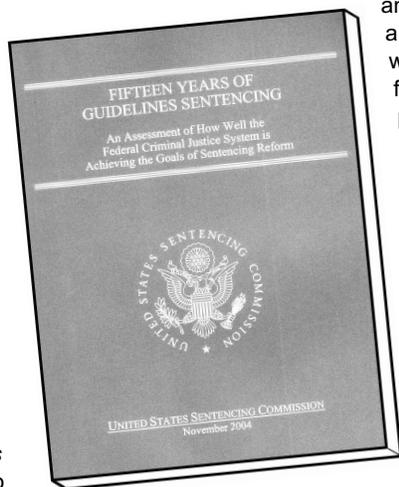
The SRA of 1984 gave law enforcement officials power to write federal sentencing laws. Law enforcement was charged with assigning years to the sentencing grid, writing laws that gave power to the prosecutors, but no one — not Congress, law enforcement, or the US Sentencing Commission — wrote, much less promulgated, formal procedures for the new sentencing system.

The sentencing of nonviolent drug offenders is the single greatest multiplying factor behind the monumental increase of federal prison populations in the last 15 years. Put another way, *without special drug sentencing tables*, the federal prison population would be stable, even with the abolition of parole. Aside from drug crimes, guideline sentencing adjusted for many crimes of violence, larceny and others after the abolition of parole. Drug crime sentencing soared alone.

We had an independent judiciary and procedures pre-1984. Today we have prosecutors and policies that vary from region to region. The SRA (unwittingly or not) gave the prosecutor *power to charge*, power to ‘*downward depart*,’ and sole power to *find the facts*. There is no one set of formal rules that prosecutors must follow, therefore, the USSC can not monitor over 90% of the process. This power scares defendants and they plead guilty.

Sentencing disparity alive

The Sentencing Commission concluded that prosecutorial promises of *downward departures* routinely *coerce guilty pleas* from defendants. The prosecutor is the only agent who can move the court for a *departure*, a sentence reduction or increase to the normal sentencing range. The USSC admits that most of the *bargaining on*



CONTINUED ON NEXT PAGE

charges is done *behind the scenes*, rendering any factual analysis of plea bargains — impossible. The USSC admits that this is a big problem area that is causing terrible disparities, affecting defendants more often than the government.

The certainty of sentencing is more uncertain than before the SRA because the *plea system is mostly invisible*, and there are no formal, routine procedures that US Attorneys follow. In 1992 the Commission required prosecutors to “maintain documentation of the facts behind and justification for each *substantial assistance pleading*,” and yet, no standard for collecting information has been written, and there is no data accessible for inside or outside researchers to process.

THE CERTAINTY OF SENTENCING IS MORE UNCERTAIN THAN BEFORE THE SRA BECAUSE THE PLEA SYSTEM IS MOSTLY INVISIBLE, AND THERE ARE NO FORMAL, ROUTINE PROCEDURES THAT DISTRICT ATTORNEYS FOLLOW. IN 1992 THE COMMISSION REQUIRED PROSECUTORS TO “MAINTAIN DOCUMENTATION OF THE FACTS BEHIND AND JUSTIFICATION FOR EACH SUBSTANTIAL ASSISTANCE PLEADING,” AND YET, NO STANDARD FOR COLLECTING INFORMATION HAS BEEN WRITTEN, AND THERE IS NO DATA ACCESSIBLE FOR INSIDE OR OUTSIDE RESEARCHERS TO PROCESS.

There was a written policy memorandum that the USSC provided the court, but when surveyed, most judges didn't know of its existence, and didn't follow the procedure when they did.

Presentencing investigations

The *US Parole Officer* prepares a *Pre-Sentencing Investigation Report* (PSI) and determines by simple arithmetic where a defendant falls within a *presumptive range* of years to serve, with supporting facts provided by the prosecutor. Many Parole Officers use only information offered by prosecutors, while others do independent investigating, but again there are no formal, regular procedures for parole officers to follow, and the Sentencing Commission cannot monitor this functionary of the sentencing process.

Real offense conduct

Real offense behavior or *relevant conduct* is an avenue of disparity because there is no formal process for the finding of facts that become *real offense*, as opposed to *charged offense*. Lesser and easily proved *charges* can be brought before the jury, while extra, more serious charges, harder to prove, can be brought up later in the *presentencing* report as *real offense* behavior.

By the Sentencing Commission's admission, “*drug quantity* often in highly contested disputes must be resolved based on potentially untrustworthy factors, such as the testimony of co-conspirators.” *Drug quantity*, unless *bargained for unseen*, will be *charged* or considered a *real offense* and considered in a defendant's PreSentence Investigation Report.

Again, these procedures are informal, and hidden.

Race discrimination

The *Criminal History mechanism* designed to protect society by increasing the prison sentence for a person with a criminal drug past was based on non-existent data. Research now shows that drug offenders with a multiple-arrest history have almost half the recidivism rate as other offenders combined. Therefore, the ‘*career offender*’ designation for a drug crime has no basis in fact for the stated purpose of protecting society from further harm.

The Career Offender label and the disparity of *crack/powder cocaine* sentencing have combined to produce s h a m e f u l ,

disproportionate *sentencing gaps*. Before the guidelines, the gaps were smaller, today the gaps are chasms. The USSC admits that “proving discrimination is difficult if a decision-maker chooses to hide it,” and that's the prosecutor. Before implementation of the US Sentencing Guidelines that included *Mandatory Minimum Sentencing*, the majority of federal caseload was white. Today the caseload is mostly black and brown.

To summarize the findings of the *USSC 15-Year Report*, I conclude that the only certain accomplishment of the guidelines and mandatory drug sentencing laws has been to remove discretion from a federal judge's decisionmaking, simultaneously cutting legal protections from a defendant's rights. Unwarranted discretion was given to the prosecutor, and the defendant stripped of most civil rights, when lawful procedures that balance power were not written or maintained.

The November Coalition takes the position that legal arguments for retroactive *Blakely/Booker* application, and reform of federal drug sentencing laws, are made throughout the Sentencing Commission's *15-Year Assessment*. We urge legal students, reformers and federal prisoners to study it.

You may request a hardcopy of the USSC's *15-Year Assessment* by writing:

**United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC 20002-8002**

or by telephone: 1-202-502-4500

The *15-Year Assessment* is also available online at www.ussc.gov/15_year/15year.htm.

US Soldiers ‘smuggled’ cocaine from Colombia

Five United States army soldiers are being investigated for allegedly trying to smuggle 16 kg (35 lbs.) of cocaine from Colombia aboard a US military aircraft, United States and Colombian officials announced on April 1, 2005.

The soldiers, whose names were not released, were detained on March 29th, said Lieutenant Colonel Eduardo Villavicencio, a spokesperson for the army's Miami-based Southern Command. Villavicencio did not disclose where the five were being held, saying only that they were in the United States. “This is an ongoing criminal investigation,” he said, declining to release any other details.

“The Department of Defense is working closely with Colombian authorities and US law enforcement to conduct a thorough investigation,” William Wood, the US ambassador to Colombia, said in a statement. “I congratulate our law enforcement agencies for their excellent cooperation in uncovering this drug smuggling scheme.”

A US Embassy spokesperson also declined to provide additional information. Colombia's Defense Ministry confirmed an investigation was underway, but wouldn't discuss the case further. The soldiers had been under surveillance by US and Colombian investigators for “some time,” a Colombian defense ministry spokeswoman told *The Kansas City Herald*. Officials waited for the soldiers to attempt to enter the United States with the drugs before arresting them.

The United States has provided more than \$3 billion in aid over the past four years to help Colombia battle popular unrest and drug trafficking that fuels the 40-year-old insurgency. Up to 800 US troops are permitted in Colombia, according to US law, to train Colombian armed forces and to provide logistical support.

Up to 600 Americans also are allowed in the country as US government ‘contractors.’ It was the second major scandal to hit the US military in Colombia in recent years.

In 1999, the wife of the former commander of US anti-drug operations in Colombia, Laurie Hiett, pled guilty to shipping cocaine and heroin with a street value of \$750,000 to New York City in diplomatic parcels through U.S. Embassy mail to an accused drug dealer in Brooklyn. She was sentenced to five years in prison.

Her husband, Colonel James C. Hiett, later pled guilty to helping his wife launder \$25,000 in illicit profits and was given a five-month prison term and a dishonorable discharge.

The case embarrassed the Pentagon at a time when former US President Bill Clinton was pitching the plan to back Colombian government forces.

Colombia is the world's largest producer of cocaine and a major supplier of heroin to the United States.



Ever since the Supreme Court ruled there is no “abstract, free-standing right to a law library or legal assistance” (see *Lewis v. Casey* (1996) 518 U.S. 343), prison authorities have gone to great lengths to find less expensive alternatives in their responsibility to provide meaningful access to the courts.

A well-stocked prison library is a thing of the past. Kent Russell, post-conviction expert, famed attorney, and quarterly columnist for *Prison Legal News* (PLN), has revised the *California Habeas Handbook*, 4th edition.

Russell produced the first edition in 1996, when Congress passed the Anti-terrorism and Effective Death Penalty Act (AEDPA). The *Handbook* differs from most law books because it is concise, current, and easy to understand.

In previous editions, Russell featured the necessity to properly file state petitions. He did so while acknowledging the importance of timely filing federal habeas petitions within the AEDPA's unforgiving one-year statute of limitations.

The 4th edition has significantly improved. Since federal habeas corpus has proven to be one's best chance for relief, the updated version covers federal habeas procedures in more detail.

The author underscores the point that the AEDPA hovers over the entire state proceeding like a vulture — ready to pounce at the first sign of weakness. For those unfamiliar with how it all works, this written work provides an excellent starting point.

Russell stresses the necessity to identify how much time one has to file federalized claims. He

explains that the clock is ticking and that one must timely file properly raised issues in order to avoid the dreaded procedural default—the end result of most pro per pleadings.

The tricky and skilled jailhouse lawyer who has a move and counter-move for every conceivable inevitability is more of a myth than a reality in light of the AEDPA. Moreover, bad advice from unskilled pro per prisoners is the norm. It is imperative that one begin one's journey into the court system with accurate information.

Russell offers sound advice throughout the text. In addition to being organized in nine easy-to-read chapters, there are a number of special features exclusive to the 4th edition. The expanded appendix contains a wide-range of forms: *Traverse*, *Notice of Appeal*, *Certificate of Appealability*, in addition to state (MC 275 Form, California) and federal (2254) habeas petitions. The step-by-step instructions on how to fill out the habeas petitions eliminate a lot of common mistakes.

The *Handbook* is a valuable source of information for anyone concerned with justice. But it is a must-have for “state” prisoners proceeding to the federal courts.

While the *California Habeas Handbook* has no pound-for-pound equal, one must always research one's issues as thoroughly as possible.

To order, send \$29 (includes S&H) to: Kent A. Russell, *California Habeas Handbook*, 2299 Sutter Street, San Francisco, CA, 94115.

What's cooking with Booker?

BY CHUCK ARMSBURY, RAZOR WIRE SENIOR EDITOR

My latest review of selected websites featuring news and commentary over the six months after the January 2005 *Booker* ruling suggests that a nervous “business as usual” mood clouds clogged criminal courtrooms across the nation. And the challenge to bring order to the constitutional requirements, retroactivity for one, posed by *Booker* is formidable for legal scholars and court officials.

Ohio Law Professor Doug Berman has been interviewed about *Blakely/Booker* implications many times on national television. In one recent website post, Berman expressed frustration with the priorities chosen by the Supreme Court even as *Blakely/Booker* principles supporting Sixth Amendment rights are disappearing, eroded, uncertain or contested.

“What's up with the Court's granting certiorari on so many death cases? The death penalty is rarely meted out. If the members of the Court really cared about sentencing, they'd “grant cert” on the various *Blakely/Booker* issues. If the liberals cared so much about justice in sentencing, they'd not have crafted their lame and unprincipled *Booker* remedial scheme.”

Sure, “death is different,” Berman qualified, “but death is also rare. The horrors of prison are real and frequent. Why not ensure that only those found guilty by a jury of their peers spend time in prison?”

The reality is that we are now six months out from the *Booker* ruling with no serious Senate discussion of a possible *Booker* fix. Of course, House drug warriors and Attorney General Gonzales have been talking up a “*Booker* fix” of more mandatory sentencing, coupled with increased pressure to inform on people (as in HR 1528: see *Spy vs. Spy*, page 6), and sold to voters under the government's current media campaign on methamphetamine.

Among hundreds of cases that are decided weekly in US District and Circuit Courts, Professor Berman listed the recent *US v. Garcia*, No. 04-40963 (5th Cir.

July 11, 2005) as interesting. “The Fifth Circuit, despite applying its tough plain error standard, vacated and remanded a sentence on *Booker* grounds. That fact alone (as well as the court's sensible dodge of an ex post facto argument) makes the case notable for legal reasons. But the decision really caught my eye because the facts indicated that the district court calculated Garcia's base offense level based on relevant conduct involving 48,651.7 kilograms of marijuana,” wrote Berman humorously on July 11th. That's about 50 tons of pot.

Berman summarizes the Supreme Court's decisions since *Booker*,

“There were a lot of capital and habeas cases; there were relatively few police practices cases, and criminal defendants and prisoners generally did better than I have come to expect. In my mind only *Booker* and *Roper* should be remembered as big criminal justice decisions from this past term.”

For quick, online cases and updates on *Blakely/Booker* issues, check out Professor Berman's website and related links: http://sentencing.typepad.com/sentencing_law_and_policy/

The Raich decision

On June 6, 2005, the Supreme Court ruled 6-3 (in *Alberto R. Gonzales, et al. v. Angel McClary Raich*), that the federal government retains the authority under the Commerce Clause of the Constitution to prosecute medical marijuana patients, regardless of state laws to the contrary.

Writing for the majority, Justice Paul Stevens squarely placed the issue in Congress's court by saying that [only] Congress could change the law to allow medical use of cannabis.

For more, see www.angelfjustice.org

FROM THE WASHINGTON POST © JULY 7, 2005

Editorial: Congress targets Habeas Corpus

Congress has a novel response to the rash of prisoners over the past few years who have been exonerated of capital crimes after being tried and convicted: keep similar cases out of court. Both chambers of the national legislature are quietly moving an ugly piece of legislation designed to gut the legal means by which prisoners prove their innocence.

Habeas corpus is the age-old legal process by which federal courts review the legality of detentions. In the modern era, it has been the pivotal vehicle through which those on death row or serving long sentences in prison can challenge their state-court convictions. Congress in 1996 rolled back habeas review considerably; federal courts have similarly shown greater deference to flawed state proceedings. But the so-called Streamlined Procedures Act of 2005 takes the evisceration of habeas review, particularly in capital cases, to a whole new level. It should not become law.

For a great many capital cases, the bill would eliminate federal review entirely. Federal courts would be unable to review almost all capital convictions from states certified by the Justice Department as providing competent counsel to convicts to challenge their convictions under state procedures. Although the bill, versions of which differ slightly between the chambers, provides a purported exception for cases in which new evidence completely undermines a conviction, this is drawn so narrowly that it is likely to be useless — even in identifying cases of actual innocence.

It gets worse. The bill, pushed by Rep. Daniel E. Lungren (R-CA) in the House and Jon Kyl (R-AZ) in the Senate, would impose onerous new procedural hurdles on inmates seeking federal review — those, that is, whom it doesn't bar from court altogether. It would bar the courts from considering key issues raised by those cases and insulate most capital sentencing from federal scrutiny. It also would dictate arbitrary timetables for federal appeals courts to resolve habeas cases. This would be a dramatic change in federal law — and entirely for the worse.

The legislation would be simply laughable, except that it has alarming momentum. A House subcommittee held a hearing recently, and the Senate Judiciary Committee is scheduled to hold one and then mark up the bill soon.

It is no exaggeration to say that if this bill becomes law, it will consign innocent people to long-term incarceration or death.

Secret British report on failure of drug prohibition

The drug war's 'Downing Street Memo'

The *Guardian*, a major British newspaper, has obtained a secret government study, presented to prime Minister Tony Blair in June 2003, that reveals in great detail the utter futility of a 'war on drugs'.

Only the first half of the strategy unit study, led by the former director general of the British Broadcasting Corporation (BBC), Lord Birt, has been publically released, on the eve of the Live 8 concert. The other half was withheld for 'security' concerns, but has been leaked to *The Guardian*.

The released first half of the study dealt with drug consumption patterns and drug-related crime, while the suppressed second half contained recommendations for drugs policy that serve as a scathing indictment of present drugs rhetoric.

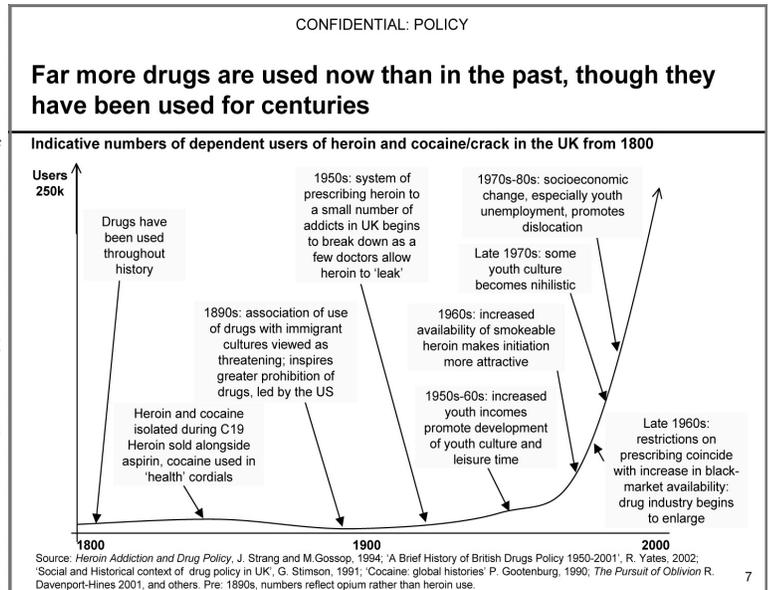
The opposition Liberal Democrats' home affairs spokesman, Mark Oaten, called on Downing Street to order full disclosure. "What this report shows and what the government is too paranoid to admit is that the 'war on drugs' is a disaster. We need an evidence-led debate about the way forward, but if they withhold the evidence we can't have the debate."

Danny Kushlik, of the Transform Drugs Policy Foundation, which campaigns for legalization, said the government was using the Act to hide the parts of the report which demonstrated that, far from reducing production, trafficking and supply, prohibition spawned the business.

"The fact that part of the report was released late on Friday night, right before Live 8 and the G8 meeting, shows how intent the government is on 'burying bad news'. Fortunately, they won't get away with it," Kushlik told *The Guardian*.

The available portions of the report are available at *The Guardian* website, at www.guardian.co.uk

The Transform website is at www.tdpf.org.uk



Excerpt from *The Brit Report* — note the sharp spike in addiction rates coinciding with the advent of the modern 'War on Drugs' (late 1960s).

Rolling back drug war apartheid in Connecticut

On a day's notice, over 50 Connecticut residents drove from far and near to tell their elected officials to vote and pass a racial justice bill that equalizes crack and powder cocaine sentencing. In the late-night hours of June 20, 2005, State of Connecticut House Bill 6635 unanimously passed in the Senate. Attached to HB 6635 was an amendment that would equalize the crack and powder cocaine 5-year mandatory minimum trigger at 28 grams.

"It feels like a graduation ceremony," wrote New Haven organizer Barbara Fair. "It was no easy battle to win. There was great opposition, but we hung in there and proved to ourselves what we can do when we stay committed, no matter how the outcome looks. We refused to give up until we got what we sought! It was about JUSTICE, and that's what we got."

Fair explained the need to pass this legislation in a letter she wrote earlier to inspire members of the state's faith community to pressure lawmakers to take action:

"Hi all. For those who may not be aware, a coalition of people and organizations have fought tenaciously for over a year to overturn



Democratic Party Chairman Bill Jepson with poster carrying activists at the State Capitol, June 2005, Hartford, CT

100 times the punishment than someone selling or possessing powder cocaine — which is the drug of choice for those in the suburban areas of our nation.

"This legislation needs to be repealed, and legislation that equalizes the punishment must be in place. We are not advocating drug use or sales. As a matter of fact, I am strongly opposed to drug use and sales of any kind, including those prescription drugs with all their side effects, sold by individuals in three-piece suits."

By the time Connecticut's Legislators were ready to write a fair crack/powder law, individuals from the community, the Black and Latino Caucus, Churches & Faith Based

the crack vs. cocaine policy that impacts negatively on people of color in America.

"Under the current policy, someone possessing or selling crack (which is a cheap form of cocaine found in inner cities) receives

Institutions, white progressive Legislators, the Congressional Black Caucus, international activists, and the governor's office agreed in rare unity that a change was needed.

Fair noted, "Our dynamic, consistent, and 'driven organizing' brought us this year's victory!"

Victory's momentum must become energy for next year. The passing of the crack and powder cocaine disparity reform has set the stage for the rise of another community movement. Eventually, such a unified effort will put an end to the racist policies of mandatory minimum sentences for non-violent drug offenses. Future goals include elimination of felony records for non-violent persons after five years of good conduct in the community after incarceration.

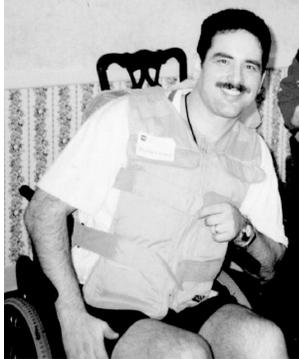
"No matter the outcome, we have only just begun to fight against the apartheid system of justice in Connecticut," insisted a jubilant Barbara Fair.

(Editor's note: on July 11, Governor M. Jodi Rell (R-CT) signed a compromise bill, HB 6975, to revise the sentencing guidelines for crack and powder cocaine in Connecticut. The original bill, HB 6635, which Governor Rell vetoed, would have set the amount of crack or powder cocaine that triggers a mandatory minimum sentence at 28 grams. The compromise bill that finally passed sets the trigger for both at 14 grams.)

Op-Ed: Punishing Pain

BY JOHN TIERNEY

Zephyrhills, Fla. — When I visited Richard Paey here, it quickly became clear that he posed no menace to society in his new home, a high-security Florida state prison near Tampa, where he was serving a 25-year sentence. The fences, topped with razor wire, were more than enough to keep him from escaping because Mr. Paey relies on a wheelchair to get around.



Mr. Paey, who is 46, suffers from multiple sclerosis and chronic pain from an automobile accident two decades ago. It damaged his spinal cord and left him with sharp pains in his legs that got worse after a botched operation. One night he woke up convinced that the room was on fire.

"It felt like my legs were in a vat of molten steel," he told me. "I couldn't move them, and they were burning."

His wife, Linda, an optometrist, supported him and their three children as he tried to find an alternative to opiates. "At first I was mad at him for not being able to get better without the medicines," she said. "But when he's tried every kind of therapy they suggested and he's still curled up in a ball at night crying from pain, what else can he do but take more medicine?"

The problem was getting the medicine from doctors who are afraid of the federal and local crusades against painkillers. Mr. Paey managed to find a doctor willing to give him some relief, but it was a "vegetative dose," in his wife's words.

"It was enough for him to lay in bed," Mrs. Paey said. "But if he tried to sit through dinner or use the computer or go to the kids' recital, it would set off a crisis, and we'd be in the emergency room. We kept going back for more medicine because he wasn't getting enough."

As he took more pills, Mr. Paey came under surveillance by police officers who had been monitoring the prescriptions. Although they found no evidence that he'd sold any of the drugs, they raided his home and arrested him.

What followed was a legal saga pitting Mr. Paey against his longtime doctor (and a former friend of the Paeyes), who denied at the trial that he had given Mr. Paey some of the prescriptions. Mr. Paey maintains that the doctor did approve the disputed prescriptions, and several pharmacists backed him up at the

trial. Mr. Paey was convicted of forging prescriptions.

He was subject to a 25-year minimum penalty because he illegally possessed Percocet and other pills weighing more than 28 grams, enough to classify him as a drug trafficker under Florida's draconian law (which treats even a few dozen pain pills as the equivalent of a large stash of cocaine).

Scott Andringa, the prosecutor in the case, acknowledged that the 25-year mandatory penalty was harsh, but he said Mr. Paey was to blame for refusing a plea bargain that would have kept him out of jail.

Mr. Paey said he had refused the deal partly out of principle — "I didn't want to plead guilty to something that I didn't do" — and partly because he feared he'd be in pain the rest of his life because doctors would be afraid to write prescriptions for anyone with a drug conviction.

If you think that sounds paranoid, you haven't talked to other chronic-pain patients who've become victims of the government campaigns against prescription drugs. Whether these efforts have done any good is debatable (and a topic for another column), but the harm is clear to the millions of patients who aren't getting enough medicine for their pain.

Mr. Paey is merely the most outrageous example of the problem as he contemplates spending the rest of his life on a three-inch foam mattress on a steel prison bed. He told me he tried not to do anything to aggravate his condition because going to the emergency room required an excruciating four-hour trip sitting in a wheelchair with his arms and legs in chains.

The odd thing, he said, is that he's actually getting better medication than he did at the time of his arrest because the State of Florida is now supplying him with a morphine pump, which gives him more pain relief than the pills that triggered so much suspicion. The illogic struck him as utterly normal.

"We've become mad in our pursuit of drug-law violations," he said. "Generations to come will look back and scarcely believe what we've done to sick people."

E-mail: tierney@nytimes.com

For Further Reading:

For more information on Richard Paey's case and others like it, visit the Pain Relief Network at www.painreliefnetwork.org.

Treating Doctors as Drug Dealers: The DEA's War on Prescription Painkillers, by Ronald T. Libby. Cato Institute, 28 pp., June 2005.

Drug War Cartoons by Richard Paey: www.november.org/cartoons

E-mail Richard at richardpaey@november.org



'Toons by Paey

Doc denounces 'War On Patients'

BY DIANE COCHRAN, GAZETTE STAFF

The federal government's war on drugs has turned into a witch hunt for doctors who legitimately prescribe legal painkillers, says a California physician who claims he was the target of an unethical federal investigation.

"The war on drugs has become a war on sick people," Dr. Frank Fisher said Friday. "The war on drugs has morphed into a war on patients, and the doctors are caught in the crossfire."

Fisher said the battle has erupted in Billings, where the Drug Enforcement Administration is investigating neurologist Richard A. Nelson. Nelson treated multiple chronic-pain sufferers with opioids, or narcotic painkillers, until federal agents raided his West End clinic three months ago.

Fisher, whose general practice clinic near Redding, Calif., was shut down in 1999 by the DEA, spoke during a press conference in Billings on Friday.

"My patients were tossed into the street and told to fend for themselves," Fisher said. "Up at the county clinic, they thought they were addicts, and they detoxed them."

Fewer than 10 percent of Fisher's patients suffered from chronic pain, which he treated with narcotics.

Prosecutors charged him with five counts of murder, alleging that five of his patients died because of the medication he prescribed for them. One of them died after the vehicle in which she was a passenger crashed.

According to Fisher, the charges came after undercover agents posing as patients failed at least seven times to get him to write them prescriptions for fake symptoms.

Ultimately, the murder charges and 91 misdemeanor counts of medical fraud were dismissed. A jury acquitted Fisher of eight more fraud charges.

Fisher said it was all an attempt by the DEA to stop him from prescribing narcotic painkillers.

And it worked.

"I would like to treat chronic-pain patients," he said. "But it's too dangerous. It's suicidal."

Fisher and Siobhan Reynolds, president of the Pain Relief Network (<http://www.painreliefnetwork.org/>), said the DEA has brought its scare tactics to Montana.

"This situation developing in Billings is going on all over the country," Reynolds said during Friday's press conference. "Patients in pain are being summarily removed from care through action taken against their physicians."

When the DEA revokes a doctor's prescription-writing privileges - as it did in Nelson's case - people in pain are often left with nowhere to turn, she said. Many of Nelson's patients have said they cannot find another physician to treat them.

"People assume everyone is getting what they need, so if people turn up without meds, it must be because they did something wrong," Reynolds said. "People who need meds can't get them."

To that end, Reynolds, who lives in New York

City, has spearheaded a petition drive in Billings asking the state's congressional delegation to initiate a Senate Judiciary Committee investigation into the DEA. She delivered 330 signatures on Friday to the office of Sen. Max Baucus, D-Mont.

Reynolds said the Pain Relief Network is in the process of opening a Billings office.

"We are going to keep on bringing it up until (these people) are no longer victims of predation by the DEA," she said.

Jan Johnson, a patient of Nelson's, said on Friday that shutting down legitimate sources for painkillers - such as Nelson's clinic - forces people to find the drugs another way.

"The entire thing is supposed to be stopping the illegal sale of drugs, but what it's doing is promoting it," Johnson said. "People are going to do that because they are in a lot of pain."

The DEA has not said why it is investigating Nelson, although the agency maintains that doctors who are doing nothing wrong should not fear investigation.

Fisher traveled to Billings this week to see for himself whether Nelson was a legitimate doctor or a drug dealer. After examining medical records and meeting with patients Friday morning, Fisher said Nelson was doing nothing wrong.

"I can tell you there's not a drug addict among them," he said of Nelson's patients. "He used (narcotics) cautiously and sparingly, and, from what I can see, he was doing a good job."

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Prison Commission examines institutional causes of abuse and violence

The Commission on Safety and Abuse in America's Prisons is a national effort to gather evidence of the nature and extent of violence, sexual abuse, degradation, and other serious safety failures and abuses in prisons and jails throughout the United States. Motivated by urgent concern for prisoners, corrections officers, and the public at large, the Commission has been holding public hearings around the country in 2005 to record testimony and receive other information.

On July 19, 2005 in Newark, New Jersey, Commissioners listened to mothers like Pearl Beale, testifying about the fatal stabbing of her son in an overcrowded District of Columbia jail while he was awaiting trial for nonviolent charges. "My son was handed a death sentence that was carried out prior to any trial or conviction. The day I buried him I was supposed to be taking him to court, not to a graveyard."

MOTIVATED BY URGENT CONCERN FOR PRISONERS, CORRECTIONS OFFICERS, AND THE PUBLIC AT LARGE, THE COMMISSION HAS BEEN HOLDING PUBLIC HEARINGS AROUND THE COUNTRY IN 2005.

Additional testimony came from Gary Harkins, a corrections officer in Oregon for 25 years, and former New Jersey prisoner, Daud Tulam, who spent 18 of his 25-year sentence in isolation. Other witnesses included a Catholic nun who worked in New York State prisons for 32 years and observed severe medical abuses, and corrections administrators from three states (Ohio, Pennsylvania, and Maryland) who face these challenges every day.

The Commission is a 21-member, non-partisan panel co-chaired by former United

States Attorney General Nicholas de B. Katzenbach and the Honorable John J. Gibbons, former Chief Judge of the Third Circuit Court of Appeals. Members have pledged to work for one year to expose the most serious problems inside US correctional facilities and how they affect the incarcerated, the men and women who staff facilities, and society at large.

Online at www.prisoncommission.org, the Commission is staffed by the Vera Institute of Justice. If you think you have a story the Commission should hear at a future Hearing, contact:

Jennifer Trone; (917) 535-4937, jtrone@vera.org or Dwayne Lawler; (212) 222-4477, dlawler@tsd.biz

Commission on Safety and Abuse in America's Prisons, 601 Thirteenth Street, NW • Suite 1150 South • Washington, DC 20005

EDITOR'S NOTES



By Chuck Armsbury, November Coalition

I've heard from several prisoners in the last few months asking for help getting their books published. As this *Razor Wire* goes to press, our staff hasn't concluded how to respond fairly to incarcerated writers with very different needs.

For already-published writers like Seth Ferranti, we'll include a thorough review of his Gorilla Convict Publication "Prison Stories" in next fall's *Razor Wire*. Three other incarcerated writers contacted our office recently, but each needs help getting first drafts ready for a publisher to see. Since we handle a lot of daily correspondence from prisoners, some of it printed in this issue, we're experienced with how much time, thought and editing go into preparing rough writing for final posting on our website or in the hard-copy *Razor Wire*.

Therefore, we can't promise at this time to get anyone's book published. As with requests for legal help that we can't provide, requests to take manuscripts and edit for publication is more work than our small staff can handle at this time, but we're exploring ways to do our part publishing your writing.

Chuck Armsbury, Senior Editor

Chuck

Kevin Zeese eyes US Senate seat

Many November Coalition members have written us to ask, "Where is Kevin Zeese? We miss his writing and sharing his experiences."

Well, our friend and reform colleague is launching a Unity Campaign that he hopes will bring together several minor parties to support his bid to become the US Senator from Maryland in 2006. For many years Zeese headed the National Organization for the Reform of Marijuana Laws (NORML) and co-founded the Drug Policy Alliance. He later served as president of Common Sense for Drug Policy.



In the 2004 presidential race, Zeese was Ralph Nader's press secretary.

Zeese is testing early support for his plan to win the US Senate seat soon to be vacated by retiring five-term Sen. Paul Sarbanes (D).

"Divide and conquer is a strategy well-used by the dominant powers to prevent the less powerful from joining

together to move forward. If the people unify around our common goals, we can achieve great things together," Zeese wrote in a press announcement.

For more, see www.kevinzeese.com



Building a Movement for Reason, Compassion and Justice

The 2005 International Drug Policy Reform Conference

November 9 -12, 2005, at the Westin Hotel, Long Beach, CA

This coming November, more than 1,000 people from across the country and around the world will gather to learn more about drug policy reform issues. Sponsored by the Drug Policy Alliance.

For more, see www.drugpolicy.org

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Callahan, Doug Hockin, Rachel Morton

The Razor Wire is a supplemental communication to imprisoned members of the November Coalition. Published at least once a year, (we're shooting for 3 in 2005) we notify members of special projects and progress, maintaining a daily updated website at www.november.org. Join thousands that visit us online for up-to-the-minute drug war reports and instructions on how they can help end the failed war on drugs. Support people working to end drug war injustice with a donation and membership in November Coalition today. Annual dues are \$30 for "Free citizens"; \$15 students and \$6 a year for prisoners. Prisoners can pay their dues with postage stamps.

To join The November Coalition and receive this newspaper, see membership form on page 22.

IF YOU OWN OR OPERATE A RETAIL STORE, OR DO COMMUNITY ACTIVISM, CONTACT OUR OFFICE FOR INFORMATION ABOUT BULK DISTRIBUTION.

How to communicate with us

• **Letters:** We receive lots of mail. Rest assured that we read every one of them, but we simply don't have the time or staff to actually respond to more than a few.

• **Legal cases:** We cannot offer you legal representation or advice. Please do not send us your legal work unless specifically requested.

• **Prisoner profiles (The WALL):** Please continue to submit your stories, but if at all possible, send us a picture along, preferably of a prison visit with your loved ones. Stories should be concise, factual, and include personal background such as age, family status etc. *Although The November Coalition staff endeavors to verify the accuracy of WALL stories, written by the prisoners themselves, we assume no responsibility for their content.* Credentialed media can be provided with documentation and family contacts if they wish to research a story. To do so, please contact media@november.org.

• **Articles for Razor Wire & Internet:** Editorials should be no more than 800 words; articles no more than 1,200 words. Submitted items should be typed & double spaced, or neatly printed by hand if you don't have access to a typewriter. Please limit the use of bold, italics, underline, or other special formatting.

• **Artwork:** We need your cartoons and sketches, please! Let your creativity and imagination run wild.

• **Donations:** We will gladly accept postage stamps from prisoners and others, as well as monetary donations.

Michigan lifer masters mathematics, Braille transcribing

Ramon Cobos is a 49-year-old Michigan prisoner serving two life sentences (running concurrently) for a violation of State drug laws. He's been in prison for nearly 17 years, but despite such restrictions, he's achieved national notoriety and great respect for developing a skill as Braille transcriber of mathematics.

Cobos was born in Cuba, earned a mechanical/metallurgical engineering degree and held a responsible position in a government laboratory before fleeing the island and seeking asylum in the United States. Unable to speak and write English with sufficient fluency to be employed as an engineer, he found a job as an unskilled factory laborer at Michigan Casting Corporation in Romeo, Michigan.

Cobos married Vicki Earl in 1987. During her pregnancy in 1988, Cobos was injured in an industrial accident and could not work. With only \$268 dedicated to them every two weeks from State unemployment compensation, desperation set in and everything got worse.

It seems clear that language barriers from the start set the limits and prospects for Cobos' eventual arrest. A friend named Ken was trying to help Ramon find paying work where speaking English properly wouldn't be an automatic bar to being hired, and he did. But this was, apparently, a twisty job interview involving unlikely co-workers.

According to Cobos, "Undercover police officers, using an informant, and posing as Mafia figures Tony Tocco and his body guard, used threats to me and my family that persuaded, intimidated and convinced me to deliver cocaine." Although there was no money exchanged for the delivery of more than 650 grams of cocaine, Cobos was arrested, tried, found guilty and in 1989 sentenced to life in prison under authority of Michigan's harsh drug laws. One of his similarly-situated codefendants, Kenneth Smith, was paroled six years ago.

Accomplishments in custody

Early in his sentence Cobos educated himself in English. After working for a couple years as a clerk and shoe-factory mechanic, he began full-time work in 1991 as a Braille transcriber-trainee. He completed the transcription course and was certified as a literary Brailist on December 30, 1993 by The Library of Congress in Washington, DC.

For the next two years he transcribed literary textbooks in history, language arts, and reading. Cobos then completed the Nemeth Braille Code for Mathematics and Science Notation course, equivalent to a post-graduate level degree-and was certified as a Nemeth Brailist on December 2, 1995 by the Library of Congress.

The more advanced Braille language is

required for transcription of algebra, calculus, chemistry and other mathematics and science textbooks. Cobos became a teacher in Braille literature and mathematics for other prisoners.

Ramon Martinez Cobos is one of only a handful of Brailists available in the US for the most complex transcriptions. For instance, Cobos fulfilled a request by the QUALCOMM Corporation of San Diego for the transcriptions of advanced computer code used by visually impaired employees in the development of their sophisticated communications technology. He's also transcribed maps for the Michigan Transit Authority to provide maps of bus routes in Braille to blind citizens.

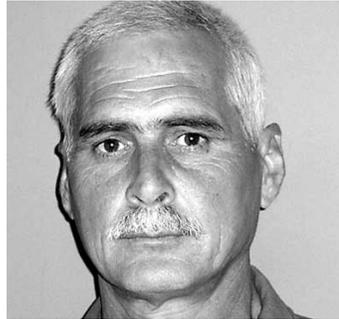
Cobos has also transcribed documents in Braille for the Michigan Supreme Court concerning the Michigan Handicapper Civil Rights Act. In 1997 he began working full-time as a volunteer at Prison Legal Services of Michigan, Inc. (PLSM). He became an (in-prison) assistant to the staff attorney, transcribed Court Orders, letters from PLSM staff to non-English-speaking people and visually impaired prisoners.

Arguably, Ramon Cobos exemplifies a useful model of human development by doing what he's done under very inhumane conditions of a life sentence in prison. By learning English, Ramon became valuable as a translator and has often served these needs of Hispanic prisoners over the years.

He's been a member of the Hispanic Americans Striving for Advancement (HASTA), National Association for Advancement of Colored People (NAACP), and from 1993 through 2000 was a member of the National Lifers Association. Currently, he is a member of the prestigious National Braille Association.

In 1994 he became a plaintiff in the Cain, et.al. v. Michigan Department of Corrections class action case. Plaintiffs presented a cause of action dealing with prisoners' personal property rights, access to the courts, classification, and the illegal tax on the prisoners' families when accepting collect calls from correctional facilities. Cobos continues to keep the Cain suit alive in court, and in 1995 was appointed as a Member of the Board of Directors of Prison Legal Services of Michigan.

Despite being imprisoned for nearly 17 years, Ramon Cobos has maintained a positive relationship with his 16-year-old daughter. Mr. Cobos welcomes correspondence with



interested writers.

(Editor's note: On March 18, 2004 the Michigan Parole Board decided it had "no interest" in taking action on the eligibility of Ramon Cobos for parole. Mr. Cobos must now wait until August 2008 for another chance to be paroled. Despite the Board members' disinterest, others were not, including

former Michigan Governor William G. Milliken, who submitted paperwork to the Parole Board urging action to release Cobos.

The Cobos' case illustrates why parole boards must be observed and evaluated by community organizations and individuals who can do an honest and open job of assessing eligible prisoners. Surely it's time for parole boards to fully explain in writing why a decision was made for release, or not.)

Write to Ramon at:

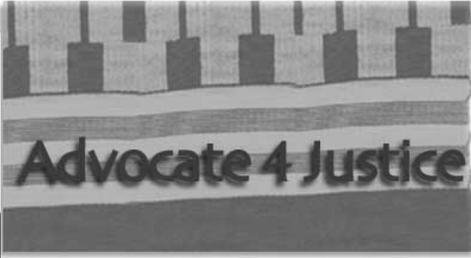
Ramon Martinez Cobos #200306
Michigan Department of Corrections
G. Robert Cotton CF
3500 North Elm Road
Jackson, Michigan 49201

ONDCP ad consultant sentenced to 18 months in prison

A federal judge on July 14, 2005 sentenced Shona Seifert to 18 months in prison and ordered her to pay a \$125,000 fine for her role in the Ogilvy & Mather scheme to overbill the government on its national anti-drug ad account. The judge also ordered her to develop a written code of conduct for the advertising industry.

Judge Richard Berman of the U.S. District Court made the ruling in a Manhattan, New York courtroom. Prosecutors sought a stiffer penalty for Ms. Seifert, who as executive group director at Ogilvy New York was the lead person on the Office of National Drug Policy account in its early days at the agency and the main focus of the trial.

In a brief statement that was barely audible over her sobs, Ms. Seifert said, "I regret that a campaign that was designed to do so much good was a source of pain and suffering for so many." A jury convicted her of one count of conspiracy to defraud and nine counts of submitting false claims. *(Source: AdAge.com)*



I respect and honor November Coalition

BY GARRY L. JONES, ADVOCATE 4 JUSTICE

The purpose for writing this letter is to humble myself and thank the people of an organization for which I have tremendous respect. This organization, The November Coalition, has integrity and high standards, and has been a registered non-profit organization since it was founded in 1997.

When I first thought about becoming the Advocate 4 Justice, I had no idea about what a grassroots organization or organizer does. I was lost, and didn't know what to do. It was a cold dreary day when I listened to a call on my answering machine from Nora Callahan, executive director of the November Coalition, stating that she had heard about me through many inmates.

After playing phone tag for a week or two, I finally connected with Nora. After that particular conversation, www.Advocate4Justice.org quickly became a 'buzz' around the country. I will never forget when Nora asked me a profound question; "Can you handle and respond to all of the letters you'll be getting in the future?" Little did I know the magnitude of her question.

By building my website, November Coalition has allowed me to create local, national, and international cross-cultural communication with people not familiar with the rigid mandatory minimum sentencing laws our government enforces. The November Coalition's broad criticisms of US drug policy have encouraged and allowed me to teach and learn in various

human communities, and to do the same education within different organizations which promote various goals of civil rights. I'm very grateful for Nora, Tom, Chuck and the rest of the "November family" for taking me under their wings, enabling me to get my message across to so many people.

November Coalition staff members have made me aware of the many organizations currently advocating for justice within the broad international social movement denouncing prohibitionist drug war policies. Coalition staff have not only put www.Advocate4Justice.org on the electronic worldwide web, but they are always involved in giving an experienced hand to others, to any grassroots organization trying to scrap and revise failed drug war policies.

It would be difficult to name all the people the Coalition has connected me to. Whenever I traveled to Washington, DC, in 2004 and the first half of 2005, Nora would put me in contact with people who could answer my questions and send me in the right direction. She introduced me to Eric Sterling, president of the Criminal Justice Policy Foundation (www.cjpf.org). Eric is a nationally recognized authority on drug policy reform, criminal sentencing, medical marijuana, the effects of the drug war on race, the economy and business, and the confluence of religious faith and drug policy reform.

Sterling introduced me to Law Enforcement Against Prohibition (LEAP). These are current

and former members of police agencies who support drug regulation rather than prohibition. I am now a member of LEAP, and a listed participant in their Speakers Bureau (see www.leap.cc). Through this chain of introductions, I also have met and talked with Bill Piper and Kathleen Huffman of the Drug Policy Alliance.

Nora introduced me to Roberta Franklin, Director of Families and Friends of People Incarcerated and the lead organizer of the August 13, 2005 March on Washington, DC: a mass rally of, by, and for incarcerated people. I am now listed as a featured speaker at the March, where I vow to voice the concerns of the men and women I once knew as prisoners of the drug war.

After featuring me and my mission in the winter 2004-2005 edition of the Coalition's *Razor Wire* newspaper, people have been calling and writing. Barely six months later, the communications to me have continued without letup. I can honestly say I support November Coalition 100%.

Garry L. Jones

The Advocate 4 Justice

(Garry L. Jones retired from the Federal Bureau of Prisons as a Lieutenant. You can reach Garry by phone at 678-358-6587, email at advocate4justice2004@yahoo.com, or by regular mail at Advocate 4 Justice, PO Box 366064, Atlanta, GA 30336.)

Thank you, Jennifer Asher

Hi. I'm Jennifer, and I'm working through the summer with staff members here at November Coalition's home office in Colville, Washington. I started here in October of 2004 as an intern through a state program that helps single moms acquire skills so they can improve themselves and better their lives. I thought I was getting myself into "just an office job." Boy was I mistaken. Instead I've found that my need to "pitch in and help in any way I can" is a valued resource. I've learned that things are not what they seem in the "great" land of America.

As a recovering meth addict over the last 10 years, I had some direct experience with the legal system and the war on drugs, but had no clue to the human devastation it has really caused, or how it impacts our society. I've learned of the massive losses this war is causing: long inhumane sentences, poor prison conditions, loneliness, broken families, and an extraordinary financial burden to public funds. The enforcement of some of these laws against drug use is now viewed by many people to be more dangerous and costly



than being addicted to the drug itself, as well as unnecessary and ineffective.

I have been well, and done well, on my road to recovery, and it didn't take prison, punishment, fines, rehabilitation centers, or losing my children and family to accomplish this. This is not to say that it didn't take extreme will power, a good support system, heartache and time, along with

wisdom from other recovering addicts that I knew. I've learned that people, ordinary people, can change the society in which we live. It doesn't even take that much, just a little compassion, a little time and the intent for change to happen.

I personally will do whatever it takes to change what I see more clearly happening to our society, and to make it a better place for my three young boys, and all our youth. I believe if more people understood the crisis of overincarceration, they would begin gathering enough strength to do something to help, however small. Change is inevitable.

My heart goes out to all of the prisoners and their families for this unnecessary pain and heartache they are forced to go through because of our country's unjust laws. I read your stories and letters weekly, and I see nothing different about any of you than the people in my own family.

The fact remains we are all humans, and humans are really just part of one big family, the human family. So with that I give my heart wholly to this cause.

Schappelle Corby update

As reported in the last *Razor Wire*, Schappelle Corby, an Australian citizen travelling to Bali in late 2004, was arrested and indicted by Indonesian authorities after 4.1kg of marijuana was discovered in her baggage. Under Indonesian law, Ms. Corby could have faced the firing squad. Corby's story became an international sensation, and enraged the Australian population, who took to the streets in her behalf.

Since that writing, Corby was indeed convicted and sentenced to 20 years. According to the *Australian Herald-Sun*, as of July 4, in a surprise move, her case has been re-opened so that new evidence could be presented, primarily allegations that the marijuana was stashed in her bags without her knowledge. The hearing is not a complete retrial; it will consider only new witnesses' evidence.

Feds take over prisoner healthcare in CA

In July the *San Francisco Chronicle* reported that US District Judge Thelton Henderson has ordered immediate federal control of California's State Prison Health Care System, citing the "preventable deaths of inmates" and the general "depravity of [the] system".

The decision followed weeks of testimony from medical experts that Henderson described as horrifying in its depiction of barbaric medical conditions in some prisons, resulting in as many as 64 preventable deaths of inmates a year and injury to countless others.

The federally appointed administrator will answer to the US Court, not Gov. Schwarzenegger's administration, and will have the power to order improvements regardless of how much it costs state taxpayers.

Jail beating victim wanted fresh start

Dennis Saban, 43, of Portland, OR, was beaten to death in his cell on June 16 after he had turned himself into authorities for outstanding drug charges. Saban had told relatives he surrendered himself to "get his life straightened around", according to *The Oregonian*.

Saban was placed in a cell with convicted murderer Thomas Allen Gordon, already known by jail personnel for his violent outbursts. When officials left the area to attend to a 'maintenance issue', Saban was brutally beaten by Gordon.

US prisons to get deadly fences

According to *The Orlando Sentinel*, two high-security federal prisons in Coleman, Florida and five others nationwide will be getting fences that can kill prisoners who touch them, a \$10 million project intended to allow the

In the News



prisons to operate with fewer perimeter guards (No, there isn't an escape problem). In addition to Coleman, the fences are being planned for Terre Haute, IN, Pine Knot, KY, Pollock, LA, Tucson, AZ and Hazelton, WV.

The so-called "Stun-Lethal" fences deliver electrical shocks to anyone who touches them once and fatal shocks if they are touched a second time. Stun-lethal fences were 'pioneered' in South Africa.

Turning Boy Scouts into drug informants

Easton, Connecticut Police Chief John Solomon is under fire for secretly using two teenage Police Explorers at Joel Barlow High School to uncover drug dealing activity there. Even the boys' parents were unaware of Solomon's questionable recruitment.

According to investigators, Solomon was recorded on tape telling a fellow officer "that he did not want the Police Explorers who provided information to be exposed or their safety compromised, that he did not want the parents of the Police Explorers to believe that the Easton Police Department was utilizing members of the Explorer Post for drug investigations."

Solomon denied that by using the Explorers to get information on drug dealing in the school he was putting them in jeopardy. (Source: *The Connecticut Post*)

Houston Police Lab faked results

An independent investigator has determined that, in at least four drug cases, Houston's already beleaguered Crime Lab faked results for tests that were never made. The report, released in June, casts doubt on the laboratory's largest division, controlled substances, which tests substances suspected of being drugs. The cases include one in which a scientist performed no tests before issuing conclusions that supported a police officer's suspicions.

The allegations of so-called "drylabbing" — concocting results without conducting analyses — may be among the most serious leveled thus far in more than two years since the crime lab came under scrutiny. One of the accused analysts resigned in March 2001, but the other still works at the crime lab. In a previous case, an analyst who performed tests that sent an innocent man to prison for more than four years

for rape, was reinstated after the police chief recommended she be fired. (Source: *the Houston Chronicle*)

Another Tulia in Texas

The ACLU announced a settlement with Robertson County, TX in May, in a civil rights lawsuit over a narcotics raid that has been compared to the discredited drug busts in Tulia. The suit, filed in 2002 by the ACLU, accused Robertson County DA John Paschall and the South Central Texas Narcotics Task Force of engaging in racially motivated drug sweeps of Hearne's black community.

In November 2000, 28 people from Hearne, a town of 4,500 about 60 miles southeast of Waco, were arrested on charges of possessing or distributing crack cocaine. The arrests followed a six-month undercover investigation involving a confidential informant working with the task force. The ACLU contended that the defendants were targeted because of their race. (Source: *Associated Press*)

Scotland abandons prison drug tests

Scottish prison chiefs are to scrap the compulsory drug testing of inmates after admitting it had failed to tackle rising heroin abuse behind bars. Prison officers say mandatory random drug tests (MRDTs), which were introduced ten years ago at the height of the so-called "war on drugs", have actually encouraged the use of heroin in jails.

"The Scottish Prison Service did their best to implement what was a political decision. The drug problem is getting so huge, it would make more sense to test people to find out who hadn't taken drugs," Sir Clive Fairweather, former chief inspector of prisons, told *The Scotsman* newspaper in April.

Congress pushes plant-eating fungus

Drug warriors Rep. Dan Burton (R-IN) and Rep. Mark Souder (R-IN) have forced a provision into the Office of National Drug Control Policy (ONDCP) 2006 appropriations bill mandating further testing on 'mycoherbicides'; pathogenic fungi designed to destroy entire crops of illicit plants such as coca, poppies, and marijuana.

In 1999 mycoherbicides were considered for crop eradication and quickly abandoned by the Clinton Administration, after experts in and out of government warned of the dangers. According to Jeremy Bigwood, researcher and co-author of *Mycoherbicides: Biocontrol or Biowarfare?*, "All of the research suggests it would be extremely dangerous to use them. They are toxic, they are non-specific, and they mutate. They are little chemical factories that produce toxic chemicals, and they can attack humans." (Source: *Drug War Chronicle*)

Uncontrolled Substances

Our drug laws have failed miserably — and only increased demand
'Harm-reduction' programs could change that

By SILJA J.A. TALVI

Try as our government may to make them go away, drugs never do.

If anything, driving drug traffic underground has only made controlled substances more desirable, expensive and dangerous. Considering the potential risks to health (from infectious diseases and impurities) as well as to one's own freedom (arrest and long-term incarceration), it's amazing anyone uses illegal drugs.

But people do. They have for thousands of years. Consider that marijuana has been used for at least 4,500 years, and hallucinogenic mushrooms for some 12,000 years.

Here in the United States, of course, alcohol is the most popular "drug" of all. Save for the (usually ignored) age restrictions and the existence of our state-regulated alcohol sales, alcohol remains very legal.

Once upon a time, that wasn't the case. In fact, by the 1920s, alcohol production and sales had become largely illegal, resulting in widespread deaths from contaminated "hooch," while all the while the illegal-but-lucrative business of alcohol became dominated by criminal organizations.

Sound familiar?

Drug prohibition has produced the same result, whether we like it or not. Of the over 2.2 million people locked up in jails and federal or state prisons, roughly one-quarter are serving sentences for drug-related charges. Shockingly, 55 percent are serving time for drug crimes.

Who gets hurt the most

There's no question that many thousands of middle-class recreational users and sellers have been ensnared by the Drug War. Yet none have been more impacted than Americans struggling to get by on marginal incomes, limited job opportunities and substandard public education.

Crack cocaine sentencing disparities have hurt blacks the worst. Over 81 percent of crack cocaine defendants in the nation are black, something that is mirrored in King and Pierce Counties. Don't make the common mistake of thinking that is because blacks just use crack more than other people—here or elsewhere. In fact, almost two-thirds of crack users are Euro-American.

How's that for a wake-up call about the role of race in the drug war?

The fact is that drugs are everywhere. Substance use crosses class, gender and ethnic lines: Rich folks do drugs; poor folks do drugs. CEOs do drugs; politicians, lawyers and doctors do them, too.

No matter what we may think about whether people should use drugs, the fact is that they're

here and have to be reckoned with in a sensible fashion.

These days, pharmaceutical companies are, in fact, pumping out some of the most popular — and toxic — drugs of all. The single most common form of King County's drug-related deaths were attributable to what professionals call "other opiate" use, namely to drugs like Oxycontin and Percocet. Those drugs helped to push King County's drug-related death rate up to 116 people in the first six months of 2004.

Alternatives do exist, primarily in the form of harm reduction-minded programs that meet users where they are. This kind of mentality views drug use through the prism of public health and compassion, helping to reduce the spread of infectious diseases, offering treatment when people are ready and providing nonjudgmental social services to address underlying problems when a person does become addicted.

Harm reduction is the norm, not the exception, in countries like the Netherlands and Switzerland. It is also becoming the norm in neighboring Vancouver, B.C., where users have long had access to clean needles and even quality-controlled heroin.

Local sources of inspiration

We don't need to look across the border, either. Right here at home, we have reputable (but underfunded) harm-reduction groups like Street Outreach Services (S.O.S.), which once had offices in the heart of downtown's drug corridor — until city officials helped to boot them out.



Does the idea of harm reduction sound too radical? It shouldn't. The King County Bar Association (KCBA) has gone a big step further, to actually recommend the state regulation and control of psychoactive substances (see below).

With the backing of a broad-based coalition (including the Church Council of Greater Seattle and the Washington Academy of Family Physicians), the KCBA took three years to study the history and consequences of drug prohibition. Their unequivocal conclusion, released in a sizeable January 2005 report, was that the criminalization of drug use had actually made the scope of the problem worse in many ways.

Prohibition has simply failed, once again. At least some of our representatives in the State Legislature are heeding the call for action: Sen. Adam Kline (D-37th District) is pushing for the passage of SB 6055, which would establish a special consultative body to look at the possibility of a new legal framework for regulating illicit substances.

The time to change the way we treat drug users is here. The criminalization of drugs hasn't gotten us anywhere but into trouble, both fiscally and socially.

Truly, how much more evidence do we need? It is high time for us to try something else.

Silja J.A. Talvi is an award-winning journalist and columnist for Evergreen Monthly. Email her with comments or EM Column ideas at silja@evergreenmonthly.com, or visit The Evergreen Monthly website at <http://evergreenmonthly.com>.

Seattle takes giant step in drug law reform

The King County Bar Association (Seattle, WA) has released a major report entitled *Effective Drug Control: Toward A New Legal Framework*, which is the product of a special task force of lawyers, public health experts, current/former law enforcement representatives and current/former elected officials. The 146-page report is intended to provide policymakers and the public with a road map to help reduce wasteful public spending, to shut down the criminal gangs controlling the drug trade and to provide better treatment for addiction and better protection for children.

"This is a controversial topic, so we need to be very clear about our objectives," said John Cary, the President of the King County Bar Association. "We want to reduce crime and public disorder, improve public health, protect children from drugs and save public money. By any measure, the current policy has been an abject failure. It's outrageous that criminal gangs control drugs today and that children have such easy access to drugs."

The full report is available from the King County Bar Association at www.kcba.org, or from the Bar Association's office by calling (206) 267-7001.

Lillie Blevins: Life in prison for three grams of crack

BY SASHA ABRAMSKY, TOWARD FREEDOM MAGAZINE, DEC. 2001

(Lillie Blevins died of cancer in June of 2005, still in BOP custody. According to Alabama news sources, Ms. Blevins was the first woman sentenced to life without parole in Mobile federal court. Most of her immediate family were also incarcerated in the same conspiracy.)

The Coalition office was recently in touch with Lillie as we prepared her WALL profile for publication. We're glad she knew that her story was being told before she passed. Our sincere condolences go out to her family.)

Lillie Blevins is a diabetic in her mid-50s. She has chronic high blood pressure, back problems, knee problems. A couple of years ago her appendix ruptured. She is scheduled to spend the rest of her life in Carswell Federal Medical Center, inside the Forth Worth army base, just outside Dallas, Texas.

Her crime was conspiracy to sell crack cocaine, allegedly head of a family operation involving three of her sons and her brother. The evidence against her: the word of a snitch who was friends with her drug-dealing sons, along with three grams of crack cocaine found in her Mobile, Alabama house by federal agents. Her status is a nonviolent, minimum-security federal inmate, no prior time served in prison, no money, and hence no lawyer working on her case; at the time of her sentencing, her husband was in jail on an unrelated charge.

An African American woman born in Selma, Blevins was pulled out of school in the third grade to look after her seven brothers and sisters.



Her father had just died. Her mother, Pearlie, was in the fields all day, picking cotton. Lillie had her first child, a boy, when she was 14, and moved south to Mobile, on the hot, sultry Gulf Coast, shortly after.

Over the next decade and a half, six more sons followed. Lillie was an active member of the Shallow Baptist Church. But in a world of grinding poverty and limited horizons, no amount of religion could prevent some of her boys, and at times herself, from being tempted by drugs.

In the early 80s, the police arrested her for growing what she terms a "reefer bush" in her garden. Later on, she was hauled in for possession of crack. Neither arrest resulted in prison time. Then, in 1990, three of the Blevins boys, now living in an apartment away from Lillie, were caught up in a federal drug sweep, turned in by a friend who bartered 28 names to federal agents in exchange for probation. For good measure, the friend, who had once lived

down the road from Lillie, added her name to the list.

One morning, when Lillie was at home, the agents knocked on her front door. She opened it, and they stormed into her house. They found three grams of crack — and carted the 42-year-old woman off to jail. The snitch said she was in charge of the family operation. Her sons denied she had any knowledge of their actions. Their denials counted for little: Blevins was sentenced to life imprisonment in a federal prison.

Prison Legal News

PLN is an independent 48-page monthly publication that reports, reviews and analyzes court rulings and news related to prisoner rights and prison issues. PLN has a national focus on both state and federal prison issues, with international coverage as well.

PLN is subscribed to and read by civil and criminal trial and appellate attorneys, judges, public defenders, journalists, academics, paralegals, prison rights activists, students, family members of prisoners, concerned private individuals, state and federal prisoners, politicians and government officials.

PLN will mail to any prisoner in the US, at no charge, an 'Info Pack' containing an informational brochure, a list of the legal and prisoner oriented books PLN sells, a 2005/2006 calendar and a bookmark.

Contact:

Prison Legal News
2400 NW 80th Street #148
Seattle, WA 98117
206-246-1022, fax 206-505-9449
www.prisonlegalnews.org

Iran adopts reasonable drug policy

Middle-eastern theocracy Iran has dropped a zero-tolerance policy against increasingly common heroin use and now offers addicts low-cost needles, methadone and a measure of social acceptance, according to the *The Washington Post*. Alarmed at a 25% HIV infection rate among heroin users, the ayatollah who heads Iran's conservative judiciary issued an executive order embracing "such needed and fruitful programs" as needle exchanges, and methadone/ opium maintenance.

Supporters of the government's new approach laud it as practical and devoid of the wishful thinking and moralism that they contend hampers policies on drug abuse and AIDS in some other countries, including the United States

Azaraksh Mokri, of the government's National Center for Addiction Studies, noted a bill pending in the US Congress calling for imprisoning Americans who failed to report marijuana dealers. "Sometimes I think the ayatollahs are more liberal," he told *The Post*.

Illegal drug trade outsourced to India

High-speed communications links, plus lower labor expenses than in the United States, is what led to the outsourcing of jobs to India. This now appears to apply to crime, too.

In what has been described as the biggest illegal bust involving Indians, a multimillion-dollar drug racket has been unearthed by US and Indian authorities, according to international news releases in late April 2005. Predictably, the illegal drug trade flourished courtesy of the Internet, lax law enforcement and norms in India, as well as the economies of lower prices. (Source: *The Asian Times*)

More 'Reefer Madness'

While the drug warriors in Washington love to tout how many 'marijuana addicts' are in treatment, and how dangerous the 'new' strains of cannabis are, a report from the federal Substance Abuse and Mental Health Services Administration (SAMHSA), issued in early July, confirms that 58% of those folks in treatment for cannabis were sent there by the courts in lieu of prison, often for simple possession. (Source: *Drug War Chronicle*)

Non-violent drug offenders asked to shed light on prison sexual assault

BY ANDREA CAVANAUGH, STOP PRISONER RAPE — WWW.SPR.ORG



Those engaged in the fierce debate over U.S. drug policy often overlook the human casualties of the “War on Drugs” — the nonviolent drug offenders who are subjected to unimaginable sexual brutality in our prisons and jails. It’s time to give those prisoners a

voice and let them tell their stories.

Stop Prisoner Rape, the only organization dedicated solely to ending sexual violence against men, women, and youth in all forms of detention, is embarking on a pioneering project. *Stories from Inside* will demonstrate how U.S. drug policy and three-strikes laws have fueled prison overcrowding and sparked a dramatic increase in prisoner rape. The project will show that the “real” cost of the drug war is measured in human lives.

The drug war is indisputably the greatest single factor affecting U.S. prison populations. In 2000, roughly one in five state prison inmates and a staggering 57 percent of federal prisoners were incarcerated on drug charges. As recently as 2003, state prisons were operating at 16 percent above capacity, while federal prisons were stuffed to nearly 40 percent above capacity.

The link between drug policy, overcrowding, and sexual violence is clear. Many corrections officials have asserted that overcrowding is a

key factor in inmate-on-inmate rape. Nonviolent drug offenders are among the most vulnerable to sexual abuse behind bars, because many are unable to defend themselves against violent inmates.

Our prisons and jails are overflowing with people suffering from untreated drug addiction who become targets for prison predators.

Many prisoners of the drug war have been forced to suffer sexual abuse in silence, but they now have an opportunity to speak out and help break down the culture of violence that governs our prisons and jails. SPR is seeking non-violent drug offenders who are survivors of prisoner rape to tell their stories.

We will honor requests for anonymity, but hope survivors will consider that using their names and photographs will give their story a powerful impact. An SPR representative will conduct face-to-face interviews with survivors who agree to go on the record, take their photographs, and make an audio recording of their story.

We’ll also help survivors prepare for the advocacy campaign that will accompany the release of *Stories from Inside*. When it is released to the public, the project will help shatter stereotypes about prisoner rape and break down the commonly held perception that drug defendants “get what they deserve” while in custody.

The project will help policymakers, corrections officials and the public understand that the cost to society of prisoner rape and sexual abuse — sexually transmitted disease, post-traumatic stress disorder, unwanted pregnancy, and above all, an escalating cycle

of violence — is borne by all of us, inside and outside of jails and prisons.

At SPR, we know how much courage it takes to talk about what happens behind prison walls. But by taking the brave step of participating in *Stories from Inside*, drug war prisoners who have suffered sexual abuse can break the code of silence and help put an end to rape behind bars.

If you would like to participate in *Stories from Inside*, or know someone who would, please contact Andrea Cavanaugh, SPR’s Public Outreach Associate. Write to SPR at 3325 Wilshire Blvd. Ste. 340, Los Angeles, CA, 90010, call (213) 384-1400 x106, or email acavanaugh@spr.org.

11-year-old girl imprisoned for throwing a rock

Associated Press reported on July 16th that, after throwing a rock to defend herself from several teasing neighborhood boys, 11-year-old Maribel Cuevas of Fresno, CA was wrestled to the ground by a gang of local police officers, cuffed from behind with a knee in the back, arrested and hauled off to juvenile hall for five days. She is facing felony charges of assault with a deadly weapon.

The rock throwing incident, in which one little boy was slightly injured, was Maribel’s response to being pelted with water balloons. Police “apparently came prepared for gang warfare” when they sent three squad cars and a helicopter in response.

“This is a case where the police department overreacted and won’t back down,” Richard Beshwate, Jr., Maribel’s lawyer, told the *AP*. “I don’t know if they don’t like Spanish speakers, if it’s racism, or if they were having a bad day. But how can you defend this kind of behavior?”

“MANY PRISONERS OF THE DRUG WAR HAVE BEEN FORCED TO SUFFER SEXUAL ABUSE IN SILENCE, BUT THEY NOW HAVE AN OPPORTUNITY TO SPEAK OUT AND HELP BREAK DOWN THE CULTURE OF VIOLENCE THAT GOVERNS OUR PRISONS AND JAILS.”

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The November Coalition

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A MESSAGE FROM THE DIRECTOR



By Nora Callahan, November Coalition

Dear Friends and Members of the November Coalition,

Hope you have enjoyed this issue of the *Razor Wire*. To keep them coming regularly, the November Coalition must have supportive members. Like you, we see movements grow and divide, new groups form and work alone, and *everybody* is asking for a membership donation. We understand the math of scarce resources, even while we embrace and nurture new groups, even while attention is divided among groups.

Just don't forget that since 1997 we have been in your corner, too!

Talk to friends and family, and help build our membership — the tried and true way we can ensure regular communication, link lives and become a mighty force for change. Support our work the best you can. To those prisoners who ask if they can send postage stamps: We do accept them.

We are preparing for an historic day in Washington, DC on August 13, 2005, joining with Roberta Franklin and "Family Members and Friends of People Incarcerated," along with more than 100 other social justice groups, beginning August 12th at a Friday evening reception. Many of you have done a fine job of spreading the word — we are hearing about the March every day! People are very excited, with some city activists chartering buses, and organizers expecting a turnout to match the 'historical numbers' projected months ago.

Why this year? Mostly, it's the maturing, the readiness, of many people who learned that to change law we have to first challenge it. In the courts, in the press, with our friends and associates, at public vigils — we challenge the status quo of drug war injustice. At the end of each period of intense struggle more people stand with us than did the period before.

The social movement decrying mass incarceration and felony disenfranchisement has grown exponentially the last three years. Given that encouraging growth, the grassroots-inspired March on DC is placing new demands on leadership within government — and on leaders of grassroots groups, too.

It's time. And time for state and federal lawmakers to give less time tinkering with individual problems of incarceration. US prisons are now warehouses of people where hope for a better day is denied every day. Countless

family members despair, too, angry at their sense of powerlessness. That said, I have experienced many times that tears of despair can water seeds of courage, and then people step out.

Chaos is not a path to prosperity and justice. Our drug laws and enforcement practices are chaotic, and our leaders lost their way years ago when they discarded the rule of law — formal procedures that protect our constitutional rights — to wage a futile war on some drugs. Most people don't think it's been worth the human cost. Federal legislators are the last leaders to listen. Is it the din of chaos that's finally getting to them?

We need an Omnibus Crime Reform discussion that can challenge, critique and replace the Sentencing Reform and Anti-Drug Abuse Acts of the 1980's. Those historic Acts

now represent 20 years of bankrupt criminology and penology, spawning inhumane laws that caused mass imprisonment of mostly vulnerable people, and doing nothing to make our communities safer from dangerous drugs or people.

Do your part today. Send me your ideas of what should be included in a future Omnibus Bill. Join us in activities that are suggested in this issue of the *Razor Wire* and on our website at www.november.org.

Support our collective labors on the long march to end drug war injustice. Tell a friend why November Coalition is critical to what makes a movement — MOVE.

In Struggle,



It's Time For Justice Now

Lyrics by Nora Callahan

Is it time for justice now?
There's a prison near every town
A mother wails, and a wife falls to her knees
When the judge gives 30 years

Is it time for freedom now?
Give schools these prison towns
Open up the gates, and renovate this land

Or is this some grander plan?
It's time to end this war
Stand up and tell 'em "No more!"
We've problems that are bigger than a bag of weed
Now the stuff's worth more than gold

Prohibition cannot work
When wages pay like dirt
We can't find jobs or build new schools
But we can pay a guard
More than the average slob

And nobody's kidding me
This war ain't about no speed
Or LSD, heroin, smack, crack or a little weed
And that leaves you and me

It's a war on everyone
A snitch's word can take your son
A mother wails, and a wife falls to her knees
When the judge give 30 years . . .



For more songs, music and rough cut video, visit
www.november.org/Music



Cycling for Justice

On July 12, 2005, David Losa of FACTS (Families to Amend California's Three Strikes) embarked on an epic Bicycle Journey for Justice: a 3,000 mile ride from his home in Santa Barbara, CA, arriving in Washington DC just in time for the FMI March on Washington DC on August 13th (see page 2). David's efforts will promote the need for dramatic prison reform, and focus on the injustice of California's Three Strikes Laws.

David's brother, Doug is serving a prison sentence of 25 years-to-life under the Three Strikes Law. His third strike was for drug possession. Doug was found with an amount of methamphetamine so small it couldn't even be measured. So far he has served 9 years.

For details and to pledge support, see www.facts1.com/blog/2005/06/david-losas-3000-mile-bicycle-ride.html

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What is The November Coalition?

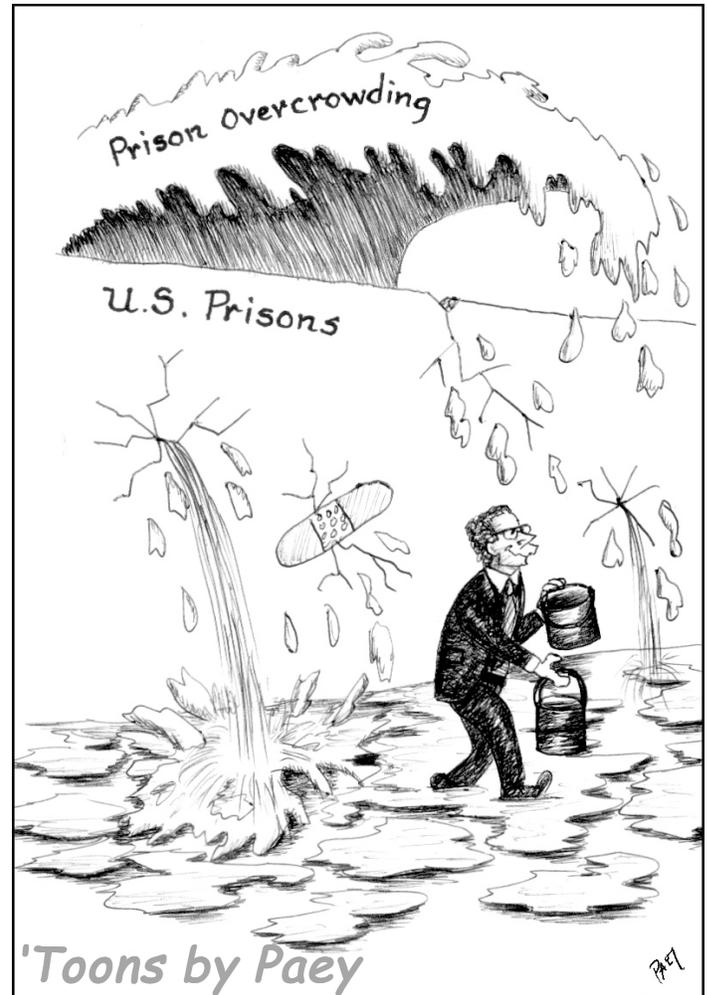
We are people like you all over the world who condemn drug prohibition laws and oppose US Drug War policies. We are prisoners and parents of those incarcerated; we are wives, sisters, brothers, children, aunts, uncles and cousins. We're friends of prisoners, legal professionals and concerned individuals, too. All across this land of America, we're anyone sick and tired of conflicted and ineffective illegal-drug laws; repressive legislation that long ago needed reexamination and redirection by national and international officials.

The November Coalition was founded in 1997 as a non-profit, grassroots organization with a mission to raise awareness in individuals and communities. There is a spiraling increase in numbers of imprisoned in the United States due to drug-law enforcement.

We arouse and activate fellow taxpayers about existing and impending dangers of an overly powerful federal government acting beyond constitutional constraints. We counsel victims of this peculiar 'war,' most of whom were minor participants, and warn our fellow citizens of the steady erosion of civil liberties, human rights and personal freedoms allowed by federal and state authorities.

Coalition members and supporters are convinced that the War on Drugs does nothing but stimulate an ever more profitable and violent underground economy. The intent of any law should create a safer country and safer world, not one more costly and less free.

Visit us on the web at www.november.org.



'Toons by Paey

For more on Richard Paey, see page 14