

# Drug Policy News

A Publication of the Drug Policy Education Group, Inc.

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Summer – Fall 2004

*Working to Reduce the Harm Caused by Drugs and by Failed Drug Policies*

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## **Mandatory Minimum Sentences Keep Arkansas Prisons Full**

Lawmakers' efforts to 'get tough' on crime has resulted in laws that keep inmates in jail for increasingly longer jail terms, especially in cases for methamphetamine. Even first time, nonviolent offenders caught in a meth offense are required to serve 70% of their sentence.

One young man we'll refer to as John Doe is currently incarcerated in an Arkansas prison sentenced to 23 years under the 70% rule and an additional 20 years at 50%, to run consecutively. This was his first offense, at age 21. There were no guns or children in the home. As his sentence stands, he cannot be eligible for release until he is 42, in 2025.

John Doe tells his story: "I guess my drug addictions started when I was eleven. That's about the time my parents got divorced and that kind of put me in a situation where I could do whatever I wanted .. I first started drinking and smoking pot. This was a pretty steady thing for about 2 years, then I done my first line of meth! I realized that I found something that made me feel really great. I liked meth because it made me feel more in control of life.

"I started doing it most every weekend for about 6 months. It's an expensive drug for a 13-year-old kid. So at about age 14 I started selling some to support by habit.

"By now I've pretty much quit school because all the people I ran with were already out of school or had quit. Anyway at the age of 15 I thought I had life figured out. I was partying day and night. I started shooting dope and my habit got a lot worse. But that was alright, I just had to sell more.

"My life stayed like this until I turned 18. I met this girl and I really liked this one so I got a job with my dad at a factory in Little Rock. I got her pregnant and decided to stop doing drugs. She wasn't ready to quit, so we split up. Both of us continued to do drugs.

"We got back together after the baby was born. It was really hard to find time to work, help her with the kid, and still do drugs so I quit working. Anyway, I had the expense of a family and both mine and her addiction so I met a guy that said why spend a hundred dollars for a gram when you can spend a hundred and make a pile of dope? This was music to my ears.

From then on I was cooking dope but not selling much, I was just partying really hard. By now I'm 20 years old and cursed by the devil.

*(Continued Pg 7)*

## **Arkansas Medical Marijuana Petition Short on Signatures**

Despite last minute efforts by volunteers and paid canvassers to gather additional signatures by the August 25 deadline, the medical marijuana petition fell nearly 12,000 names short of the required 64,456 verified signatures required to place the measure before voters in the November 2 election.

About 66,000 signatures were submitted on the July 2 deadline, and another 30,000 were submitted at the end of the grace period. Both sets of petitions were riddled with notary problems and invalid signatures.

Arkansas Alliance for Medical Marijuana, a campaign committee organized by the Alliance for Reform of Drug Policy in Arkansas, worked with Marijuana Policy Project (MPP) of Washington D.C. starting in late 2003, after MPP announced their intention of running a ballot initiative in the state. MPP contracted with Southwest Group of Las Vegas Nevada to gather the signatures. One week after Southwest Group submitted the 66,000 signatures, MPP announced it was withdrawing from the campaign for lack of funds. At that point, about \$300,000 had been expended by MPP, with \$228,500 paid to the canvassing firm. The Alliance managed to raise about \$30,000 and hired Arkansas canvassers to gather more names up til the August 25 deadline.

In a related case in Nevada, where MPP also hoped to place a measure on the ballot, Southwest Group failed to gather sufficient signatures. MPP later fired the company.

The Alliance has not made a decision about future efforts for medical marijuana legislation in Arkansas.

## **Racial Profiling Task Force**

Hearings continue statewide as the Governor's Task Force on Racial Profiling gathers input from citizens. The task force was formed as a result of efforts in the 2003 General Assembly to address concerns that persons of color were more likely to be targeted for law enforcement scrutiny.

The task force hearings are open to the public. Information gathered at the hearings will be studied and recommendations will be made for additional legislation in the 2005 session. Two hearings remain, scheduled for October 28 and November 4.

*(Continued Pg 2)*

## Racial Profiling Hearings:

October 28, 2004

6-8 p.m. Springdale, Arkansas, Jones Center  
922 East Emma Avenue  
Springdale AR 72765  
479-756-8090

Rooms 226 & 227

Rooms will be available from 5:00 p.m. thru 9:00 p.m.  
Event will be posted as Public Hearings on Racial Profiling.

November 4th, 2004

6-8 p.m Halls United Methodist Church  
28 Cleveland Street  
Texarkana, Arkansas 71854

For more information, contact Joyce Campbell at  
501-682-3687.

## Profiling in the Emergency Room

Racial and ethnic minority trauma patients in the US are tested for alcohol and drugs at higher rates after adjusting for potential confounders. Because having a positive alcohol or drug test can adversely affect a patient's medical care, differential testing that is racially or ethnically biased may place minority patients at risk of receiving disparate care.

In a study published in *Health Policy* 2004 Aug;69 (2):159-167, authors Kon AA, Pretzlaff RK, Marcin JP, note that racial and ethnic minority patients often receive differential medical care compared to Caucasians. The aim of this study was to evaluate the association of race and ethnicity with rates of alcohol and drug testing among adult US trauma patients. Data for 79,246 adults admitted to 58 institutions participating in the US National Trauma Data Bank were evaluated using multivariable, hierarchical, mixed-effects analyses to determine the odds of receiving alcohol and drug testing among different racial/ethnic groups. The primary outcome variable was whether an alcohol or drug test was performed. The secondary outcome variable was the results of those tests.

Results showed that Black and Hispanic males in all injury severity groups were tested for alcohol more frequently than Caucasian males. Hispanic males in the moderate injury group were also tested for drugs more frequently than Caucasian males.

## Book Review

*Strength of the Wolf, the secret history of America's war on drugs* (Verso), by Douglas Valentine.

This book examines the period of 1931-1968 (the life and times of the Federal Bureau of Narcotics). The book provides a federal law enforcement officer's perspective of 1931-1968 and provides light and criticisms of Harry J. Anslinger's tyrannical rule over the FBN which lasted over an unprecedented 30 year tenure. Despite the best, hard nosed, localized, nationalistic, morally driven efforts to enforce drug prohibition laws, the very

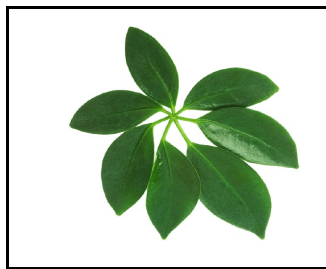
policies (and their agents) are put into harm's way and subsumed into larger geo-political concerns that ultimately lead to prohibition's feckless and uneven enforcement. The book is quite a read (514 pages with footnotes). I believe 'The Strength of the Wolf' is helpful in developing a comprehensive understanding of American 'drug' policy.

Reviewer: Allen St. Pierre, NORML Foundation

## Inevitable Super Coca

Or, What Prohibition Can Do For You

Drug traffickers have created a new strain of coca plant that yields up to four times more cocaine than existing plants and promises to revolutionise Colombia's drugs industry. The new variety of coca, the raw material for cocaine, was found in an anti-drug operation on the Caribbean coast, on the mountainsides of the Sierra Nevada, long known as a drug-growing region.



The plant is described as 'very tall' with more leaves and a lighter color.

More from Jeremy McDermott in Bogota at  
<http://news.scotsman.com/international.cfm?id=1002462004>

## Prohibition Through Chemistry

Rimonabant, which is expected to be sold under the name Acomplia in Europe within two years, is the first drug in a new class called "selective cannabinoid CB1 blockers." Doctors treating obesity believe the drug will be effective in reducing appetite.

Cannabinoids, the same chemicals that spark "the munchies" in marijuana users, exist naturally in human body chemistry, said Dr. Arya Sharma, professor of medicine at the McMaster University who was involved in the European study while teaching in Germany.

It has been suggested that any drug that blocks cannabinoid receptors might effect much more than weight. Since the endogenous cannabinoid system is also responsible for aspects of mood/stress and accompanying behaviors, essentially shutting it down can likely lead to depression, stress, and anxiety. Reformers believe that long-term studies of this drug will reveal serious psychological/emotional discomfort in long-term users. When a similar drug was given to newborn mice, they failed to suckle and died of starvation. Many expect that such a drug might soon be promoted to parents as a method of curbing teen experimentation with marijuana, or to substance abuse treatment facilities.

Some users reported mild side effects including nausea, diarrhea and dizziness. According to one physician, the drug reduced the "hedonism" associated with eating.

Drug Policy Education Group Inc. is a nonprofit 501(c)(3) Arkansas corporation dedicated to reducing the harm caused by drugs and by failed drug policy.

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## Too Poor to Reproduce?

“Citing a pattern of negligence and drug abuse that has left a couple unable to care for their children, a judge in upstate New York last week barred the couple from procreating until they prove they can take care of their offspring. The ruling, by Judge Marilyn L. O'Connor of Monroe County Family Court, came after the mother's four children were placed in foster care and after three of them tested positive for cocaine as newborns.

“According to court documents, the mother had her first baby in 1998. Suffering from a cocaine addiction and struggling to find work and shelter, she had her child placed in foster care. Since then, she has given birth to three more children. Each newborn tested positive for cocaine and was promptly taken from the mother, whose pattern of neglect was monitored by the Monroe County Department of Human and Health Services. When her last child was born on March 23, 2003, the baby was taken away after only seven days.

“...There are a number of cases in which attempts by judges to interfere with a person's ability to procreate have been found unconstitutional. The California courts, for instance, decided that a woman could not be forced to wear a Norplant device, which works as a long-term contraceptive.

“In this case, the mother waived her right to a lawyer during the court proceedings and neither parent showed up for the hearing.”  
*New York Times*, May 11, 2004

### COMMENTARY

Too poor to procreate: How the Monroe County Court Opinion “In the Matter of Bobbijeane P.” furthers the rationale for service cuts to poor families and fails to advance the welfare of children

by Lynn M. Paltrow, Executive Director  
National Advocates for Pregnant Women

A recent decision by a Monroe County judge ordering a couple not to procreate has received national and international attention. Ostensibly, this decision addresses the personal irresponsibility of two drug-abusing parents. In fact, this

decision creates a financial means test for procreation.

The judge admits this decision is both “unusual” and without legal precedent, yet conveniently chose to write it in a case where neither parent was represented by counsel. Nor did the judge solicit or receive any input from “friends of the court” who could knowledgeably address such matters as drug addiction and parenting. Instead, the judge relied on only one witness, a DHHS case worker.

There are no allegations in this case of physical abuse, and no evidence of actual medical harm. The primary basis for finding neglect is that the mother used drugs and had a prior history of “cocaine babies.” Alcohol and drug addiction, like untreated mental illness and other diseases, can affect parenting ability. But both Constitutional and state law prohibit treating conditions women suffer during pregnancy (including addiction) as a form of neglect. Moreover, both the law and the best interests of the child require that courts ask, “Can these people parent?” not, “Do they use drugs?”

Recently, 30 leading research scientists published an open letter asking that the term “cocaine baby” be dropped from usage. This term, they explained, lack[s] scientific validity and should not be used. “Throughout almost 20 years of research, none of us has identified a recognizable condition, syndrome or disorder that should be termed a ‘crack baby’.” Despite the fact that they also find the term “crack addicted baby” no more medically defensible, the judge nevertheless used such terms in her decision.

Many people have struggled with addiction to alcohol and other drugs while conceiving or parenting young children. President Bush and Cindy McCain (Senator McCain’s wife), are just a few of these people. We do not, however, label them neglectful nor suggest that as a society we would be better off if they lived under a procreation ban. As research documents, even mothers who use cocaine have been found to look after and care for their children adequately.

Could the mother in this case have cared adequately for her children? Unfortunately, we simply cannot tell from the decision in this case. Instead we learn that she had been referred to substance abuse treatment numerous times, but failed to follow through. The caseworker admits the mother may have made attempts at drug treatment but apparently never bothered to find out if the problem was the mother’s lack of commitment or the barriers low-income people face when seeking drug treatment. Did the mother try and get put on a waiting list? Were the only available programs designed for men? Did she have transportation to the program? Did the treatment conflict with work, court dates, or other mandated services she was supposed to receive?

Asking these questions is not about making excuses for truly unfit parents – it is about distinguishing between incapable parents and those who are poor and unable to get the help they need and want. Finding the answers to these questions is essential to ensuring that children are not unnecessarily and traumatically separated from parents who love them. The truth is that drug treatment can and does work, but the right kind of treatment is often unavailable. Family Rehabilitation Programs

– ones that combine drug treatment with parenting and other services allowing parents to keep their children with them – are particularly successful and cost-effective. Yet, no mention is made of a referral to such a program, nor even to the existence of one anywhere in Monroe County.

Failure to get mental health treatment and to have suitable housing are two other reasons the judge gives for finding neglect. Unfortunately, mental health programs often refuse to take a patient unless he or she has first overcome the addiction problem, and substance abuse programs want the mental health issues cleared up before they will provide drug treatment. As for the housing issue, the court suggests that only jobless people, often with substance abuse problems wind up in shelters. In today's economy, however, plenty of Americans working full-time jobs still can't afford housing. In Monroe County, a person earning minimum wage would have to work 95 hours a week to be able to afford a two-bedroom home.

Ultimately the decision is not about drug abuse, housing or parenting ability – it is about the kind of individual blame and false economic analysis that fueled America's eugenic sterilization policies. Although the decision does not rest on the claim that certain individuals must be stopped from passing on bad genes, it is based on the same kind of cost analysis; social problems from high taxes, to poverty, to the overburdening of our child welfare system can be solved by controlling the birth rates of certain individuals.

The court claims public services are already generous but that because of parents like these “[o]ur society has reached the breaking point” when it comes to the budgets for such things as schools and social services. Accordingly, the court holds “the constitutional right to have children is overcome when society must bear the financial and everyday actual burden of care.” The logic of this decision, however, applies to any impoverished family, regardless of whether there is a substance abuse issue. Under this standard, the good, loving parents of children in inner-city Rochester who lose their jobs and incur catastrophic medical bills, should not be allowed to procreate. The hypothetical couple in the wealthy Rochester suburb of Brighton or Pittsford who get roaring drunk or do cocaine every night but “hire a nanny at their own expense” are welcome to have as many children as they wish.

As for America's “generous” expenditures on child welfare, the entire federal commitment is about one half of one percent of the total federal budget. The cost of foster care, also cited by the court, reflects less on irresponsible parents than on failed policies that allocate huge amounts of money to remove children from their parents, but virtually nothing for services that would help families stay together.

In fact, it would be hard to find a modern industrial society that does less for its poorest families. The disappearance of unskilled manufacturing jobs, the lack of educational

opportunity, a national health insurance program, paid parental leave, or adequate childcare for working families are structural, societal problems that conspire to make it impossible for large numbers of very good human beings to be able to support their children financially. Significantly, the only services that the judge mentions will be provided at no cost are birth control, including sterilization.

By sending the message that the system has plenty to offer troubled parents when, in fact, it does not, and by offering a seemingly quick fix solution – stop the bad people from procreating - the judge has done nothing to protect children and much to justify further government cuts in programs that in fact can improve the lives of families and children.

Contact Ms Paltrow at 153 Waverly Place, 6th Floor  
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[www.advocatesforpregnantwomen.org](http://www.advocatesforpregnantwomen.org)



## Medical Marijuana News

### Texas Doctors Endorse Doctor/Patient Rights

On May 14, during its annual state convention, the nearly 40,000-member Texas Medical Association unanimously - and without discussion - adopted a new policy recommendation supporting the right of doctors and patients to discuss medical marijuana as a viable treatment option, without fear of recrimination by authorities. The TMA delegates also reaffirmed the association's call for further research on medicinal marijuana, "including well-controlled studies in patients who have serious pain-related conditions," according to the report of the TMA's Council on Scientific Affairs, which was approved by the TMA delegates. "Paramount is support for physicians to discuss with patients any treatment option available and to do so without recrimination for the physician and/or patient." *Austin Chronicle May 24, 2004*

### Health Benefits of Marijuana

Two new studies appearing in scientific journals add more fuel to the fire regarding cannabinoids as anti-cancer agents. In the first, published in the journal of the American Society of Hematology, THC appears to induce programmed cell death (apoptosis) in 3 leukemic cell lines. In the study, cell death began to occur within 6 hours of exposure to THC. This finding follows earlier research demonstrating that cannabinoids including THC and CBD induce apoptosis in other forms of malignant cancer cells, including glioma and skin carcinoma. <i.e., Antitumor effects of cannabidiol, a non-psychoactive cannabinoid, on human glioma cell lines (*Journal of Pharmacology And Experimental Therapeutics*, 2003) <http://jpet.aspetjournals.org/cgi/content/abstract/jpet.103.061002v1>

The second study indicates that endogenous cannabinoids also induce apoptosis in glioma cells. This finding comes 2 months after a study published in *Cancer Research* noted that cannabinoids inhibited the growth of glioma tumors in mice and

in two human biopsies by restricting the tumors' blood supply. "Cannabinoids Inhibit the Vascular Endothelial Growth Factor Pathway in Gliomas," *Cancer Research*, August 15, 2004

Also related, this month's *BMC Medicine* also reported on THC's potential as an anti-cancer agent, noting that THC prevented the application and replication of the gamma herpes virus, which is associated with the development of such cancers as Kaposi's Sarcoma, Burkitt's lymphoma, and Hodgkin's Disease. <http://www.biomedcentral.com/1741-7015/2/34/abstract>

### **Department Of Health And Human Services To Evaluate Medical Cannabis**

The Drug Enforcement Administration (DEA) has instructed the US Department of Health and Human Services (HHS) to conduct a scientific and medical evaluation of marijuana as part of a reassessment of its scheduling under the federal Controlled Substances Act.

The DEA's request is in response to an administrative petition filed by a coalition of health and drug law reform organizations in October 2002 to reclassify marijuana so that doctors may legally prescribe it for medicinal purposes. Under federal law, the DEA is required to submit the rescheduling petition to HHS for review because it presents extensive evidence on marijuana's potential therapeutic use that has not been examined in any prior rescheduling proceeding.

"Rescheduling is a public policy approach to the medical marijuana issue," said Jon Gettman, the petition's organizer. "Opponents of medical marijuana have challenged advocates to provide a scientific rather than a political case for therapeutic use. [This] petition relies on extensive scientific and medical evidence. Now we challenge HHS to provide patients and doctors an opportunity to provide evidence of marijuana's accepted medical use as part of their formal review of all the available and relevant evidence."

The petition seeks the removal of marijuana from Schedule I of the Controlled Substances Act and its rescheduling to a lower classification that would recognize its potential medicinal use and expedite its development as a FDA-approved medication. NORML filed a similar rescheduling petition with the DEA in 1972, but was not granted a federal hearing until 1986. In 1988, DEA Administrative Law Judge Francis Young ruled that marijuana did not meet the legal criteria of a Schedule I prohibited drug and should be reclassified. Then-DEA Administrator John Lawn rejected Young's determination, a decision the D.C. Court of Appeals eventually affirmed in 1994.

Full text of the petition is available online at: <http://www.drugscience.org>. For more information, please contact either Jon Gettman at (540) 822-5739 or NORML Foundation Executive Director Allen St. Pierre at (202)483-5500.

### **Marijuana Arrests**

In 2002, 45.3% of the 1,538,813 total arrests for drug law violations were for marijuana, a total of 697,082. Of those, 613,986 were for possession alone.

## **GOOD NEWS Department**

### **Marijuana Not Cause of Schizophrenia**

A new study by Dutch scientists concludes there is no scientific proof that cannabis use induces schizophrenia, as had been previously claimed. In an article in August's *Magazine for Psychiatry*, a peer-reviewed journal, the three authors say that on the basis of currently available data there is no need to restrict marijuana use in the Netherlands. Often the first symptoms of schizophrenia occur during adolescence, when people start to experiment with drugs, but the scientists believe cannabis use only has a negative effect on people already genetically predisposed to the mental illness. "It is therefore advisable that youngsters with a family history of schizophrenia and patients with a schizophrenic disorder be discouraged from using cannabis," the report said.

### **Study Finds No Association Between Marijuana Use and Incidence of Oral Cancer, Contrary to Previous Reports**

Contrary to previous research findings that have suggested a link, marijuana use does not appear to be associated with an increased risk of developing oral cancer, according to a large, population-based study led by researchers at Fred Hutchinson Cancer Research Center. Their findings, the result of the most comprehensive evaluation to date regarding the association between marijuana use and the incidence of oral squamous-cell carcinoma, appear in the June issue of *Cancer Research*, a publication of the American Association for Cancer Research.

The study, conducted in collaboration with researchers at the University of Illinois Urbana-Champaign and Seattle's Center for Health Studies, Group Health Cooperative, found no association between marijuana use and increased oral-cancer risk, regardless of how long, how much or how often a person has used marijuana. The study also found no increased risk among marijuana users who had other underlying risk factors for oral cancer, such as a history of tobacco use or heavy alcohol use.

The study also found that marijuana smokers with certain common genetic variations that are known to interfere with the body's detoxification process are at no greater risk of oral cancer than those who carry normal copies of such genes.

The Fred Hutchinson study counters findings from a smaller investigation, widely publicized in 1999, which suggested that ever-users of marijuana were at more than twice the risk of getting head-and-neck squamous-cell carcinoma as compared to non-users.

National surveys have found that about a quarter of the population has smoked marijuana at some point in their lives, and that about 4 percent of the population, or 6 million people, report occasional use of marijuana.

For more information, visit the center's Web site at [www.fhcr.org](http://www.fhcr.org).

## **Cannabis Reduces Violence**

A recently published study of drug-related violence concluded that cannabis actually reduces the likelihood of violence during intoxication, according to a report in the *Forensic Drug Abuse Advisor* (May 2004). The study (Peter Hoaken and Sherry Stewart, "Drugs of abuse and the elicitation of human aggressive behavior," *Addictive Behaviors*, Dec. 2003, Vol 28(9) 1533-54) reviewed all published controlled clinical trials of behavioral changes produced by benzodiazepines, cannabis, opiates, psychostimulants, alcohol, and PCP to evaluate whether some drugs predispose to violent behavior.

They concluded that there was solid evidence from 26 controlled studies that alcohol does increase violent behavior. Evidence concerning benzodiazepines (tranquilizers) was more equivocal suggesting that they did provoke violence, but only at low doses. The authors speculated that this was because they reduce inhibitions. The situation for opiates was more complicated. Though intermittent use increases euphoria, chronic use has been linked to hostility, and withdrawal can sometimes lead to violence. For psycho-stimulants like amphetamine, the authors concluded the evidence was equivocal. They found that no clear connection had been demonstrated in controlled clinical settings, but suggested that chronic abuse could lead to psychotic behavior, which might in turn induce violence. For cannabis, they concluded that intoxication actually reduced the likelihood of violence.

## **DEA Loses Hemp Fight**

Three years after the Bush administration tried to ban food products made with hemp, the government surrendered that front in the war on drugs, attorneys for the hemp industry said Sept 27. The Justice Department, these attorneys say, will not challenge a federal appeals court ruling that overturned the ban - a victory for more than 200 companies that make such things as energy bars, waffles, milk-free cheese and veggie burgers with the plant that contains only trace amounts of THC, the key ingredient in marijuana.

Sept. 27 was the deadline for the government to challenge a federal appellate court's February decision to the Supreme Court that the United States cannot ban the domestic sale of hemp foods. Patrick Goggin, a San Francisco lawyer representing the Hemp Industries Association, said the government had informed the group's legal team that it would let the deadline to appeal expire.

The San Francisco-based appeals court said that although the Drug Enforcement Administration has regulatory authority over marijuana and synthetically derived tetrahydrocannabinol, or THC, the agency did not have the authority to ban foods derived from hemp. The court said it was not possible to get high from products with only trace amounts of the mind-altering chemical.

"They cannot regulate naturally-occurring THC not contained within or derived from marijuana," the appeals court ruled.  
*From an article by David Kravets, Associated Press*

Meanwhile, we're sorry to report as we did in *Drug Policy News* four years ago that the federal government is spending millions

to eradicate ditch weed. Federal data released in November states that 99% of all marijuana eradicated in the United States is feral hemp, according to the Sourcebook of Criminal Justice Statistics.

According to the DEA data, of the estimated 247 million marijuana plants destroyed by law enforcement in 2003, more than 243 million were classified as "ditch weed," a term the agency uses to define "wild, scattered marijuana plants [with] no evidence of planting, fertilizing, or tending." Unlike cultivated marijuana, feral hemp contains virtually no detectable levels of THC, the psychoactive component in marijuana, and does not contribute to the black market marijuana trade.

NORML Foundation Executive Director Allen St. Pierre criticized the program for spending millions of taxpayers' dollars eradicating hemp. "Hemp is grown legally throughout most the Western world as a commercial crop for its fiber content, yet the US government is spending taxpayers' money to target and eradicate this same agricultural commodity," he said, noting that many of today's current hemp plots are remnants of US-government subsidized crops that existed prior to World War II. "Virtually all wild hemp goes unharvested and presents no legitimate threat to public safety. As such, it should be of no concern to the federal government or law enforcement."

According to DEA figures, Indiana led all 50 states in the volume of ditchweed eradicated, destroying more than 219 million plants. Oklahoma law enforcement eradicated some 10 million plants, and Missouri destroyed an estimated 4.5 million. More than half of all states failed to report their ditch weed totals. California led all 50 states in the number of cultivated plants eradicated in 2003, with the DEA citing nearly 1.2 million plants destroyed.

Begun in 1979, the Domestic Cannabis Eradication/Suppression Program allocates federal funds to law enforcement agencies in all 50 states for the purpose of uprooting marijuana. For 2003, DEA data indicates that 8,480 arrests were derived from law enforcement raiding over 34,000 outdoor plots, and over 2,600 indoor gardens. Meanwhile, over 32 nations allow their farmers to produce hemp as a valuable commodity.

## **Legalizing May Reduce Teen Use of Marijuana**

Marijuana use by teens in California has reached its lowest level since 1991-2, continuing a decline that began with passage of Prop 215 in 1996, a measure which allowed legal use for medical purposes. The California Student Survey, sponsored by the state attorney general's office, the Department of Alcohol and Drug Programs and the Department of Education, showed that fewer teens are experimenting with drugs, alcohol, and cigarettes. The two-year study also showed fewer "heavy users" and decreased use of marijuana, LSD and Ecstasy among 11th-graders.

More information on the results are available at <http://www.safestate.org/index.cfm?navid=254>

# Top Ten Marijuana-Using Nations

1. New Zealand 22.23% of adult population using
2. Australia 17.93%
3. United States 12.3%
4. United Kingdom 9%
5. Switzerland 8.5%
6. Ireland 7.91%
7. Spain 7.58%
8. Canada 7.41%
9. Netherlands 5.24%
10. Belgium 5.01%

See [http://www.nationmaster.com/graph-T/lif\\_can\\_use](http://www.nationmaster.com/graph-T/lif_can_use)

“Our investigation indicates the § 983(b)(2) provisions are not being implemented in any reasonable fashion,” Ms. Grantland continued. “But a spokesman from the Legal Services Corporation stated this week that enforcement of this provision has been minimal. During the four years since CAFRA passed, LSC has made sure that any forfeiture victims who contacted them at their office in Washington, D.C. have been provided appointed counsel -- but only a handful of victims have stumbled upon LSC as a source of appointed counsel. He told me that the forfeiture prosecutor is supposed to notify the victims of their right to counsel. Dream on!”

Contact Ms. Brenda Grantland and FEAR at 20 Sunnyside Suite A-419, Mill Valley, CA 94941  
415-389-8551 <http://www.fear.org>

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## Are Your Rights Protected?

Before 2000, a person whose property was seized in an arrest had no right to court-appointed legal aide in an effort to regain the property. The Civil Asset Forfeiture Reform Act of 2000 (CAFRA) requires the court appointment of counsel in two situations. Now it seems that in many cases, citizens are not receiving help as promised.

Two civil forfeiture victims who recently contacted Forfeiture Endangers American Rights (FEAR) have been representing themselves in federal court because they were financially unable to hire counsel after their assets were seized. In both cases the victims had a right to court appointed counsel under 18 U.S.C. § 983(b)(2)(A) because their primary residences were seized. In neither case did the court or prosecutor advise the claimant of his right to counsel. In one case, the claimant and his wife actually asked for counsel to be appointed and the court denied it. In the other case, the claimant didn't know he had a right to counsel so he didn't ask ask.

Brenda Grantland, Board president for FEAR, states that this is a violation of CAFRA. “The claimant doesn't even have to meet regular standards for indigency -- the statute says counsel shall be appointed if the claimant is "financially unable to obtain representation by counsel." If your house is seized, you can't mortgage it to hire counsel to defend it from forfeiture. No lender would lend any amount of money against a seized house. Clearly the value of the house and any equity in it cannot be relied on to deny the right to counsel under this provision.”

According to Ms. Grantland, CAFRA, as enacted, provides for the court-appointment of counsel at the government's expense for forfeiture victims uable to retain counsel in two situations:

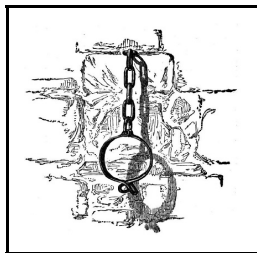
\* 18 U.S.C. § 983(b)(1) allows but does not require the judge to appoint counsel for claimants who have court-appointed counsel in their parallel criminal case.

\* 18 U.S.C. § 983(b)(2) requires the judge to appoint counsel for claimants whose primary residence is seized if they are "financially unable to obtain representation by counsel" - upon request by the claimant.

*Mandatory Minimum, Continued from Page 1*

“By the age of 21, my second baby was born and 3 weeks later I was arrested (2001). Three months later I had a 43 year sentence. Now here I am.

“Now to tell you exactly how I caught my charges. I met a man named \_\_\_ – he was a confidential informant. This man was buying and selling more dope than anybody in my little town of \_\_\_ [population 500]. I sold him a gram. He and his girlfriend done about half of it in front of me, then his “nephew” (undercover cop) came in the room and asked me for some, I said I didn't have anymore, so [the informant] told him to pay \$100 and he would give him the rest of what he had. He did so and then done some of the dope.



“About a week later, [the informant] and a friend of mine came by and asked to buy some. I didn't have any so [the informant] said “I've got plenty of money, and a ride, let's go buy the stuff we need and make some dope.’ It sounded good to me so I said sure. We went to Hot Springs and the three of us went in different stores to buy everything we needed. On the way back home ‘the informant] said, ‘why don't we just go to my house to cook it.’ I said OK. We get to his house and he had a camera hidden in a radio. ...

“A few months later we were arrested ... The prosecutor tried to get me to sign a 40 year plea bargain under the 70%. He told my lawyer that he wanted me to go to jury trial to make an example out of me. I went to jury trial and they did make an example out of me. Everybody else signed plea bargains.

“I've already tried an appeal, rule 37, and sentence reduction and all were denied. I did file for clemency a few months ago, I haven't heard anything back on it yet.” *As written June 5, 2004.*

Across Arkansas and nationally, stories like John Doe's are not hard to find. Even as states try to restrict sales of over-the-counter cold and allergy medicine to keep it from being cooked into methamphetamine, there is evidence meth is

becoming the workplace's latest drug headache. Law enforcement says there is no end in sight – meth lab seizures rose from fewer than 8,000 in 1999 to 10,000 in 2003.

In the 7.1 million drug tests administered by Quest for employers in 2003, meth use by workers and job applicants had increased by 68% from the previous year. The past six years, workplace amphetamine use has surged 145%. Overall, marijuana remains by far the most popular drug, accounting for more than half of positive tests and about 3 positive tests per 100 given. In comparison, 3.2 in 1,000 tested positive for meth in 2003, up 68% from 1.9 in 2002.

Law enforcement will be the first to say that there seems to be no sign of a let-up in the escalation of meth use. In spite of well intentioned legislation to reduce access to meth ingredients, meth continues to be cooked in homes, motel rooms, car trunks, and woodland shacks. Efforts to scare users away from meth by making examples of young people like John Doe seem to have no effect on the number of people using or making meth. It does, however, have a significant impact on the cost of enforcement.

The taxpayer burden has become increasingly heavy in supporting the cost of drastic measures like mandatory minimum sentencing. At the current price of Arkansas prison space, Mr. Doe's 21 years in prison will cost the state approximately \$1.25 million. One must ask if we couldn't do better for Mr. Doe and for the state.

As reported June 26, 2004, in the New York Times, "Thirteen million Americans have been convicted of felonies and spent time in prison – more than the population of Greece. And they tend to return to prison again and again. Of the 650,000 inmates who will be released in 2004, two-thirds will be back behind bars within few years... The operating expenses for state prisons alone is around \$30 billion a year.

Meanwhile, the total number of individual Americans involved in the criminal justice system hit 6.9 million in July. The total includes people in jail and prison as well as those on probation and parole. This is about 3.2 percent of the adult population in the United States, according to a report by the Justice Dept.

The growth in what the report termed the "correctional population" comes at a time when the crime rate nationwide has been relatively stable for several years. It also comes when many states, faced with budget deficits, have passed new, less strict sentencing laws in an attempt to reduce the number of inmates.

The report does not address why the number of men and women in jail and prison and on probation and parole has continued to increase. But experts say the most likely reason is the cumulative effect of the tougher sentencing laws passed in the 1990's, which led to more people's being sent to prison and being required to serve longer terms.

Studies show that 20.3% of sentenced federal inmates are nonviolent, first time drug offenders. They are:

- \* serving sentences for drug law violations, and

- \* have no prior commitment to state or federal prison; and
- \* have no convictions involving any sort of aggressive or intimidating behavior (anything from simple assault or fights to threats involving a weapon to homicide).

Although Arkansas prison records cannot be readily analyzed to determine what percentage of Arkansas prisoners would fit this description, certainly John Doe's case does.

Most of the nation's largest religious organizations are advocating for the repeal of federal mandatory minimum sentencing laws, thereby restoring sentencing discretion to judges on a case-by-case basis. The National Council of Churches, United Methodist Church, Progressive National Baptist Convention, United Church of Christ, Unitarian Universalist Association, and the Church of the Brethren Witness have joined the Evangelical Lutheran Church and Union for Reform Judaism to oppose mandatory sentencing laws. In addition, the U.S. Conference of Catholic Bishops (USCCB) is on record in opposition to mandatory minimum sentencing laws.

After several months of study, the American Bar Association has recommended the abolition of mandatory minimum sentences for small times drug offenders, which the ABA says are "unfair."

"For more than 20 years, we have gotten tougher on crime. Now we need to get smarter," said ABA president Dennis Archer for an Associated Press story June 23.

State and federal laws requiring mandatory minimum prison terms leave little room to consider differences among crimes and criminals, a commission studying problems in the criminal justice system found. It said states and the federal government spent \$9 billion on jails and prisons in 1982 and \$49 billion in 1999, an increase of more than 400 percent.

The report, nearly a year in the making, follows up on blunt criticism of the criminal justice system that came from an unlikely quarter last year. Supreme Court Justice Anthony M. Kennedy, a moderate conservative placed on the court by President Reagan, asked the nation's largest lawyers' group to look at what he called unfair and even immoral practices throughout the criminal justice system. "Our resources are misspent, our punishments too severe, our sentences too long," Kennedy said then.

The ABA has responded with a lengthy study and recommendations for changes in sentencing laws and in other areas. In the case of mandatory minimum sentencing laws, state legislatures and Congress would have to pass new legislation to repeal the existing laws. Reform-minded citizens will be looking to the 2005 Arkansas General Assembly in hopes of some changes in the Arkansas law.

Mr. Doe states near the end of his letter, "I believe that if they were to change the laws, it probably wouldn't be retroactive. Do you have any helpful advice?"

Do we?

"States and the federal government spent \$9 billion on jails and prisons in 1982 and \$49 billion in 1999, an increase of more than 400 percent."

