

Judge has a new take on drug war

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US JUDGES CALL FOR LEGALIZING OF DRUGS

The restricted sale of heroin, cocaine and cannabis 'would break the vicious cycle of violence' Duncan Campbell in Los Angeles

American judges are growing so uneasy about their country's drugs laws that they are to go public with their calls for change. The judge who will publish the names of his concerned colleagues is calling for the regulated sale of cocaine, heroin and cannabis as the only way to break the current international cycle of violence and imprisonment.

The move comes as an advertising campaign is launched advising jurors to acquit people on drugs possession charges even when they are guilty and as a citizen's commission publishes a report calling for drugs to be treated as a medical and social rather than a criminal problem. It also coincides with this week's report on the enormous disparity between the numbers of black and white people jailed for drug offences.

James P Gray, a superior court judge in Orange County, California told the Guardian yesterday that his new book will contain the names of more than 20 judges who favors a change in the policies, some of whom support his call for legalization, and are happy to say so publicly. He said that three times that number of judges had given him permission to quote them by name. Many others had told him privately of their belief that a radical change to the drugs laws was urgently needed.

Judge Gray, 55, has been on the bench for 16 years and was previously a prosecuting attorney. His experience on the bench convinced him that the drugs laws were causing more crime than they were stopping and that the "war on drugs" had been a failure.

"There is an increasing number of judges who want change," said Judge Gray, the author of the soon-to-be-published *Why our Drugs Laws have failed and What we can do about it*. "The momentum is truly building, we're making progress and it is no longer a question of if there will be changes, but when."

Judge Gray, who is due to outline his views at a meeting in Los Angeles later this month, is critical of the United States' drugs tsar, General Barry McCaffrey, whose budget has just been increased from \$17.8bn a year to \$19.2bn (UKP13bn). He suggests that asking Gen McCaffrey whether the right policy is being pursued is "like asking a barber if one needs a haircut".

The changes that Judge Gray would like to see include the regulated sale to adults of heroin, cocaine and cannabis. No advertising should be allowed, said the judge, so that drugs could be "de-prioritized". He also favors needle-exchange programmers. He believes that the likeliest route for change would be for individual states to be allowed to decide on what drugs policy suits them best.

"First of all, we have to legitimize the discussion," he said. He stressed that talking about change did not mean that he or fellow judges condoned the use of drugs, merely that the existing laws

were causing more harm than good.

His move comes as the organization Common Sense for Drug Policy (CSDP) has been placing advertisements in magazines headlined "Just Say Not Guilty".

The ad argues that "the jury right to say 'not guilty' is an essential safeguard against injustice. [This] dates back to English common law and the founding of the United States."

Doug McVay of the Virginia-based CSDP said yesterday that the aim of the advertising campaign was to remind people that "justice is not simply the application of the law. The current situation violates common sense". He said that the FBI made 1,559,000 arrests for drug violations in 1998, 78% of them for possession and the campaign wanted to "plant the seed" in the minds of potential jurors that they could acquit people if they believed that the punishment did not fit the crime.

The United States is now building a new prison every week to cope with the people serving mandatory minimum sentences for drug possession. The prison population in the US has risen from just under 200,000 in 1966 to 2m today accounting for a quarter of the entire world's prison population.

A further call for change has come from the influential Institute for Policy Studies in Washington which has published the findings of a citizen's commission on drugs policy entitled The War on Drugs: Addicted to Failure. In the foreword to the report, Professor Craig Reinerman states: "Drugs are richly functional scapegoats. They provide the public with a restricted aperture of attribution in which only the chemical bogey man or lone deviant come into view and the social causes of a cornucopia of complex problems are out of the picture."

The chairperson of the commission, actor, singer and civil rights activist Harry Belafonte, said: "Having grown up in Harlem during the Great Depression, I knew that the real roots of drug abuse and addiction had more to do with poverty, alienation and despair than crimes of malice."

He pointed out that in California five African-Americans were in jail for every one in a state university. The commission has called Gen McCaffrey's "war on drugs" a "monumental failure" and recommends the ending of mandatory minimum sentences for drug cases. It calls on President Clinton to revise the drug laws.

Belafonte's point was emphasized by this week's publication of a report by Human Rights Watch saying that 482 out of every 100,000 African-American men are in prison for a drug crime compared with 36 out of every 100,000 white men. In Illinois, a black man is 57 times more likely to be jailed for drugs than a white man.

The figures were described as a "national scandal" by the organization, whose report was funded by George Soros's Open Society Institute.