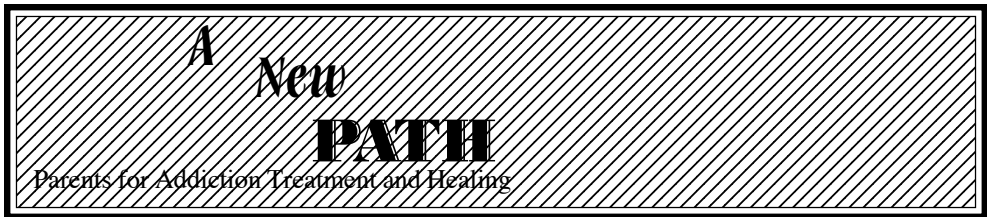


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Vol III February 2001

Co-Directors' Messages

Sylvia Liwerant

In April of 1951, Louisiana Congressman Hale Boggs was in need of a crusade because of a corruption scandal he was involved in. He conducted three days of hearings in which he heard about soft narcotics laws and liberal judges, and thus, lobbied for the most stringent narcotics penalties in history.

Consequently, Congress took judicial discretion from the hands of the judges, and gave it to the prosecutors by making the sentences mandatory. The minimum was now two years regardless of the circumstances for first time offenders, second offenders got five years without parole, and three timers no less than twenty.

During the 1980's when crack cocaine was the drug "in vogue", and many deaths occurred as a consequence of overdosing, Congress added another twenty six mandatory minimum sentences to the books, and by the time Ronald Reagan left office, the prison population in America had doubled in size.

Many political leaders and candidates have supported longer sentences for the possession and sale of drugs. Among the more popular sentencing extensions are what is known as "mandatory minimums" which require that a judge impose a sentence of at least a specified length if certain criteria are met.

For example, federal law requires that a person convicted of possessing half a kilogram or more of cocaine powder be sentenced to at least five years in prison.

Critics, however, worry that mandatory minimums foreclose discretionary judgment where it may most be needed, and they fear mandatory minimums result in instances of

Gretchen Burns Bergman

The Challenge of Implementation

On November 7 Californians voted 61 percent to 39 percent in favor of Proposition 36 to mandate treatment instead of incarceration for non-violent drug offenders. According to the State Legislative Analyst's Office, with the passage of this law, 25,000 first and second time drug offenders and 12,000 parolees will be diverted into treatment.

Members of A New PATH (Parents for Addiction Treatment & Healing) are deeply satisfied by this victory. It clearly shows that citizens are understanding that addiction is a public health problem. The health care community, along with the support of the criminal justice system can now take positive steps in curbing the destructiveness of the disease.

It has been proven again and again that treatment, even coerced treatment, works.

We see this as a major step forward in a failing war on drugs, because the concentration of efforts and dollars will be on the demand for drugs, rather than the supply. \$120 million a year will be allocated annually to expand treatment programs.

Besides turning lives around, the state stands to save millions of dollars due primarily to diminished crime and prison costs. The Legislative Analyst estimates a savings of approximately \$200 million per year.

California has the opportunity of providing a powerful example to other states across the country. Hopefully, this will be the beginning of a nation-wide change of policy in the handling of addictive illness and the non-violent crimes associated with it. At the very least, it

A Changed Mind on Drug Legalization

The San Diego Union - Tribune; San Diego, Calif.; Jan 11, 2001; David Klingler;

Klingler is professor of criminology at the University of Missouri. This article is adapted from his chapter in the new Cato Institute book, "After Prohibition: An Adult Approach to Drug Policies in the 21st Century."

When I joined the Los Angeles Police Department in 1980, I was a strong supporter of the notion that illegal drugs should stay that way and that the enforcement of drug laws should be a top priority.

But my views quickly changed once I hit the streets. Assigned to the rugged 77th Street Division in the heart of South-Central, I saw firsthand the social problems one could find in any community awash in the trafficking and use of marijuana, cocaine, heroin and other controlled substances.

During my first months on patrol, after handling hundreds of drug calls and arresting scores of people for possessing various illegal substances, I began to doubt what my peers and I were doing.

I saw violent criminals walking the streets because the jail space they rightfully deserved was occupied by nonviolent drug offenders. When we carted small-time drug dealers off to prison, I saw other sellers quickly step in to fill the void.

I started to view most people involved with drugs either as broken souls who made self-destructive choices or as harmless people who indulged their appetites in moderation — not as crooks who needed to be punished.

I tried to reconcile what I saw with my views about firmly enforcing drug laws. At first I accepted the arguments of politicians, policy wonks and my peers who asserted that ever harsher laws and firmer enforcement would turn back the tide of illegal drugs.

But by the end of my tenure with the LAPD I came to believe that marijuana — a drug I had never seen anyone overdose on or influence anyone to do anything more violent than attack a bag of potato chips — should be legalized.

I held a bifurcated stance toward illicit drugs — legalize pot but strictly enforce existing laws against the rest of the stuff.

As the years passed, however, I saw a nation fighting harder, devoting more money and jailing increasing numbers of individuals — all the while falling further behind in the war on drugs.

The price of the drugs didn't rise with increased interdiction, usage rates didn't fall, and the number of lives damaged or destroyed by chronic use, overdose and drug-related criminal activity mounted. No matter how much I disliked the idea, I became convinced the United States should legalize illicit drugs.

Interestingly, both my hardest supporters and my harshest critics come from the same group: my law-enforcement associates. Many on both sides of the debate share my views about the futility of the drug war and agree it carries a substantial downside.

What generally separates those who agree with me from those who don't is their take on a question they almost invariably put to me: Won't legalizing drugs lead more people to take them and thus make things worse?

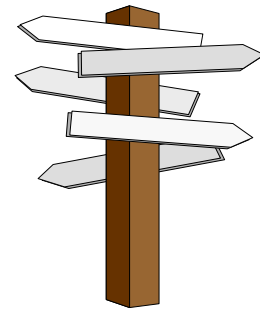
I do not know whether legalizing drugs will increase their popularity. But I suspect that if we approach legalization thoughtfully and pursue a sensible post-legalization strategy, then the drug rolls will not swell. They may in fact decline.

But even if more people do take drugs in the wake of legalization, we would live in a society where citizens suffer far less from the predatory crimes spawned by the illicit drug trade.

In the end, we cannot protect free adults from their own poor choices, and we should not use the force of law to try. In a free society negative consequences befall people who use their freedom to do foolish things.

Victimless self-destructive behavior is its own punishment, not the business of the legal system.

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Liwerant

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unjust punishment.

“FAMM” (Families Against Mandatory Minimums) was formed in 1991, when 30 families and several lawyers gathered in Washington, D.C. to discuss creating an organization to address the problem of mandatory minimum sentences.

It now has 19,000 members and 25 volunteer-run chapters across the country. FAMM is working to repeal federal and state mandatory sentencing laws that remove judicial discretion. To ensure equity and fairness at all stages of the sentencing process, FAMM also works to improve sentencing guidelines, both in state and federal courts.

But generally, their legislative efforts focus on educating members of Congress and state legislatures about sentencing policies. Far too many legislators know next to nothing about who goes to prison or for how long or why. FAMM does not argue that crime should go unpunished—but the punishment should fit the crime.

Volunteers run **Famm chapters** in dozens of cities across the country. They coordinate public education campaigns and build support for sentencing reform by showing local communities how mandatory minimum sentencing laws affect them. They highlight the cost of incarcerating nonviolent offenders for too many years.

FAMM is working for reform in **New York**. The Rockefeller Drug Laws are some of the oldest and most heinous mandatory sentencing laws in the country, requiring a mandatory minimum sentence of 15 years to life for anyone convicted of selling two ounces or possessing four ounces of a narcotic. FAMM is working with a coalition of reform groups and individuals on a campaign to repeal the laws.

Within FAMM’s files are the case documents of hundreds of men and women serving excessive mandatory sentences. These cases, or “profiles of injustice” put a human face on mandatory sentencing laws. They have also worked behind the scenes to urge President Clinton to grant clemency to low-level addicts behind bars with excessive sentences, and before Christmas the president granted around 50 pardons.

Last May, the governor of New Mexico, Mr. Gary Johnson, appointed a drug policy advisory group, which included judges, secretaries of health and public safety, the mayor of Albuquerque and medical experts, to evaluate his state’s drug policies. Their findings included amending the criminal statutes to reduce first and second drug offenses to misdemeanors and to require automatic probation and treatment rather than jail for offenders. It also recommended abolishing mandatory-minimum sentences for drug offenses, restoring discretion to judges.

Burns Bergman

Continued from page 1

should open the door to a more compassionate understanding of the problem.

We are aware of the huge task we have ahead with the Proposition’s implementation. It is crucial to provide effective, accountable treatment, and to match appropriate recovery plans to the addicted individual. The criminal justice system will have a lot of work to do to adjust to the changes, including expansion of the county probation departments. The health care community also faces the considerable task of providing new, certified and licensed treatment facilities. It is imperative that we don’t fail at this phase of the journey.

Although we have differed with our approaches to the solution to the addiction epidemic, parents, drug court judges, health care professionals, and district attorneys all agree with the basic premise that treatment works. Now, we all need to sit at the same table to creatively and consistently ensure that this opportunity to heal our society is fulfilled to our greatest potential. Members of A New PATH welcome this challenge and invite all to participate in the process of positive change.

If you need to contact me, please call: Gretchen Burns Bergman at 619-670-9880.



The mandatory minimum laws have brought too many people to our jails and prisons only to be warehoused there, most of them without rehabilitation or job training, just wasting time, at the cost of the taxpayers. These are gross violations of human rights and the policy is one of insanity. It is time to take the drug policy reform off of the back burner. I wholeheartedly applaud Governor Johnson for his efforts, and hope that others like him who can change policies effectively, humanly, morally and economically, will have the courage to follow in his footsteps.

ANew PATH
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Mission Statement

PATH is a voluntary organization of concerned parents of individuals suffering from the disease of addiction. Our PURPOSE is to partner with health care professionals, the justice system, recovering addicts and concerned members of society to seek better understanding of the illness and "therapeutic justice" for substance-related criminal activities.

Our GOAL is to reduce recidivism, save lives, heal families and move toward a healthier society.

Our Proposals for Alternative Sentencing

1) Long-term mandatory rehabilitation in a structured alcohol and drug-free recovery environment for non-violent offenders.

2) If the nature of the crime does not allow for this alternative, sentencing should include immediate placement in a rehabilitation and recovery program within the prison system.

3) Upon release from prison or recovery homes, substance abusers should be mandated to a transitional program in a sober-living environment to prepare them to re-enter society.

History

PATH grew out of a series of pre-Substance Abuse Summit meetings with parents, Superior Court Judges and officers of the criminal justice system in the Spring of 1999. Founding members are Gretchen Burns Bergman, Sylvia Liwerant and Tom O'Donnell, all parents of offspring whose lives have been devastated by the disease of addiction.

Quilt Project 2001 to Benefit a New PATH

PATH was founded just two years ago and we will celebrate our 2nd Anniversary in April. Since our inception we have grown into a formidable advocate for alternative methods for the justice systems' handling of substance-related cases. PATH has become a recognized influence in helping change state policy and attitudes toward mandatory treatment, rather than incarceration for nonviolent, first and second time drug offenders. With the overwhelming passage of State Proposition 36 that sets aside \$120 million for treatment, the real work is just beginning.

If PATH is going to have influence on the implementation of Prop 36, if we will continue to advocate and educate and to support and guide those parents who need our help, we need your help. So in order to continue our mission, we are proud to announce a special fund-raising project: A drawing for a Helen Teisher quilt.

Our thanks goes to Helen for donating one of her lovely handmade quilts to PATH. Helen's quilts have raised tens of thousands of dollars for philanthropic causes she champions. A founder of the Alliance for the Mentally Ill, Helen has made tremendous contributions to the mental health community of San Diego. Thank you, Helen.

Everyone on our mailing list will soon receive a brochure. Suggested donation is \$25 for six entries or \$5 each. Anyone owning a Helen Teisher quilt will possess all the love and caring this remarkable woman gives of herself to the mental health community.

The drawing of the winning ticket will be held at our April general meeting and 2nd Anniversary Party! The winner need not be present to win. For tickets or more information call: Grace Conlee (619) 281-1954

This article from the Richmond, VA Times-Dispatch was written by the Richmond Police Chief [ed]

Byline: Jerry Oliver

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Nation's War on Drugs Exact Terrible Price

With each massive drug seizure, evidence mounts that this country is sadly losing the war on drugs - not to drug cartels or drug traffickers over there - but to the dependably relentless appetite for illegal drugs created by our neighbors right here at home. Eighty-six years after Congress passed the 1914 Harrison Act that criminalized drugs, America's drug consumption thrives. Our nation's premier drug-war strategy of more police, more interdiction, and more incarceration is failing and the trajectory continues downward.

Our strategy calls for more police presence on our nation's streets. Drug-law enforcement, however, is a very difficult proposition at all levels. Drug violations are generally consensual. In almost every case, willing buyers and willing sellers participate secretly in this highly profitable criminalized industry.

So in order for police - federal or otherwise - to do their jobs they must snoop, spy, sniff, sneak, and covertly surveil in order to snag drug quantities, drug traffickers, or drug users. Most of the snooping, sneaking, and snagging is done primarily through the use of informants - people who use their own criminal status or position to gain some benefit from the police by trading information.

It is a dangerous, dirty business, chock full of espionage, deceit, lies, and double-crosses. I am concerned about what this side of the police business is doing to other sides of our profession ethically and morally.

We need only to look at the LAPD's current Rampart scandal for a salient example. We put our integrity, our hard-earned community trust, and our credibility at risk when police stoop to snooping on fellow Americans over drugs.

I am concerned about the billions of dollars spent every year by our nation's police in attempting to eradicate or intercept illegal drug shipments to our country. These billions might be better spent on demand reduction, prevention, treatment, education, community-building, and supporting families. Federal agencies spend countless hours tracking planes, boats, trains, and other vehicles transporting cocaine, heroin, and marijuana earmarked for the U.S. market. These agencies and others have scored many widely publicized successes in detection, eradication, seizures, and arrests both in foreign countries and within our borders.

A FEW YEARS ago drug agents in Los Angeles seized nearly 20 tons of cocaine and more than \$10 million in cash in what was called the largest drug haul in history, with street values estimated at up to \$20 billion. What is really even more astounding about a seizure of this size is the non-effect it had on the street price of a usable quantity of cocaine.

During the weeks afterward the price per unit of cocaine actually dropped to the lowest levels ever in the L.A. area instead of rising, as one would expect because of market forces. This simply indicates that the nation is awash in cocaine and other illegal drugs and that even a mammoth seizure such as this one is just a drop in the proverbial bucket.

I am also concerned about the "business" of drug-crime incarcerations in our country. It really is big business, composed of hundreds of thousands of law-enforcement and prison officials, drug courts, private and public prisons, anti-drug organizations, drug-testing labs, clearing houses, and many others who benefit economically and politically from this ever-growing bounty.

Our lock-ups at all levels are fuller today than ever before. In 1980, approximately 50,000 people were behind bars for violating drug laws. Today, because of aggressive policing, prosecution, and mandatory sentences, that number is approaching 500,000. Warehousing people is one of the fastest growing and most profitable businesses in our country-all supported by taxpayer dollars.

SO IT appears our rigid anti-drug strategy and our punitive prohibition efforts are failing. Former Secretary of State George Shultz said recently that any real and lasting change that occurs in a democratic society is done through education and persuasion and not through coercion and force. Perhaps it's time to heed his sage advice and search for alternative approaches to our current drug-control strategies that will be more effective, fair, and humane in reducing drug usage and drug dependency; that will emphasize treatment, prevention, and education; and that will rely on our social and health systems more than on our criminal-justice systems.

A growing number of thoughtful Americans across the political spectrum have strong doubts about the efficacy of the current drug war, its costs, its true impact, and its future consequences. They want to rethink our direction and possibilities. As a police officer on the front line, quite frankly I'm one of them.

Prop 36 Implementation Seminar

By Ingrid Fermin, Legislative Chair

PATH Co-Founders Gretchen Burns-Bergman, Sylvia Liwerant and Legislative Chair Ingrid Fermin attended a seminar in Sacramento on December 18, 2000 that was sponsored by the Campaign for New Drug Policies. The day's agenda was divided into separate panels of expertise: State and County Implementation, Legislative issues and Treatment Providers.

The seminar raised more questions than it answered regarding the implementation of Proposition 36 but it presented an opportunity to clarify and expand on many issues. The following are some of the ideas presented to the overflow audience:

Congresswoman Maxine Waters emphasized her support of treatment over incarceration.

Delancey Street's Mimi Silbert reminded the attendees that recovery is a long-term process. "It takes a long time to change a life," commented Silbert "It is important that the public not be impatient." Ms. Silbert stated that the implementation of Proposition 36 can only be successful if the recovery community and law enforcement are willing to cooperate with one another. We must be aware of greediness and we must make sure that we do not fractionalize our efforts. According to Ms. Silbert, we will need to take some risks in order to succeed and we must not fear setbacks. Our measuring stick is that we can only improve after forty years of failure by the criminalization of addiction.

Judge Nadler of Santa Clara County reiterated that treatment is now a medical issue and that it is no longer a law enforcement issue. It is very important that we recognize this significant change. Nadler stated that if we listen to the members of the justice system, we are listening to a long old system that did not work. We must realize that this new process is the law and it must be followed—even by those who have opposed it.

The treatment panel was particularly interesting. Dr. David Smith, Founder/Director of the Haight/Ashbury Free Clinic in San Francisco shared some fascinating research on the disease of addiction. Addiction is a brain disease that is both genetic and environmental. The pleasure receptors are different for the addict than they are for the non-addict.

Dr. Smith is of the opinion that proper assessments and proper placement of the addict is going to be essential. We must accurately evaluate the problem, measure the willingness of the problem and the community must be involved in their recovery.

Dr. Ernest Noble of UCLA explained that DNA is now playing a role in addiction. His position is that addiction is actually more genetic than environmental. Noble stated that 25 percent of Americans are "hooked" on something—alcohol, controlled substances, tobacco, work, food, etc.

A Parent's Prayer

By Herbert Mirkin

Our reverie is now broken, as in retrospect we see
The mistakes that have been made, but both you and me
Just as any young bird, spreads its wings prepared to fly
We who feared for your safety, wouldn't even let you try.

As your parents we were concerned, you might somehow go astray
With the pressure of your daily life, might totally lose your way
And so we tried to guide you, and push across our point of view
Because we had convinced ourselves, that path was right for you.

But from time immemorial, this lesson we parents learn
That all the knowledge we're to gain, each of us must earn
And to try to shield your child, is really quite in vain
Along the road of life they'll find, both happiness and pain.

And so you then decided, that you were now full grown
And now was the time for you, to strike out on your own
And looked about to see, many paths from which to choose
How many would you have to try, how often would you lose.

You vacillated back and forth, searching for your way
Forgetting all you had learned, living only for today
And we looked with wonder, at how easily you'd spurn
The culture it had taken us, many centuries to learn.

Hopefully praying, that we might still be there to see
You become the fine person, we know that you could be
For those of you who finally, found your path to trod
We raise our eyes to heaven, and give our thanks to God.

And for those amongst us, who have yet to find their way
There is little else that we can do, but to hope and pray
For through the years we've given you, all we've had to give
Now you're grown we must concede, that it's your life to live.

And in the future you must decide, just what you want to do
For no one else can tell you, that it is now all up to you
Yet our hearts cry out to say, my child why can't you see
That you can be almost anything, that you really want to be.

There is one thing you should know, for no matter how you fare
That there are two people in this world, that still really care
And I'm here to tell you my child, that it's really not too late
For you are the captain of your soul, the master of your fate.



Noble indicates that the more we understand about the mind and the body of the alcoholic, the better treatment we will be able to provide. We must ask the addicts: "What is it they are lacking, what do they need?"

Dr. Reda Sobkey made a wonderful statement. "When the people lead, the leaders will follow." The people have spoken by passing Proposition 36. Now the leaders must implement it successfully.