

L A T E

Testimony in support
of
H.B. 2675 HD2 RELATING TO MEDICAL MARIJUANA
March 17, 2008
in the
SENATE COMMITTEE ON HEALTH

From

REPRESENTATIVE JOE BERTRAM III

Chair David Y. Ige and Committee Members,

I commend your committee for taking up this timely legislation since Hawaii became the first state to legislatively allow for the medical use of marijuana to qualified patients. The proven benefits of its use have multiplied along with challenges to safe legal access to the medicine.

In its landmark study, the American College of Physicians, who are the second largest organization in one United States after the American Medical Association unequivocally reiterates its medical efficacy in the face of its schedule 1 (no medical use) Federal CSA designation. The ACP also identifies a major obstacle to safe access is our own local police! This is made quite evident by the continued testimony from all police chiefs opposing any improvement in our law.

Please pass this measure so that all stake holders can come together in a non confrontational manner to address these challenges together. Also, of at all possible you could add in language removing the mature/immature plant designation (which even the police find difficult) and making the marijuana patients the lowest priority for law enforcement.

Thank you for your consideration.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org

L A T E

MUFI HANNEMANN
MAYOR



BOISSE P. CORREA
CHIEF

PAUL D. PUTZULU
MICHAEL D. TUCKER
DEPUTY CHIEFS

OUR REFERENCE KI-TA

March 17, 2008

The Honorable David Y. Ige, Chair
and Members
Committee on Health
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Ige and Members:

Subject: House Bill No. 2675, H.D. 2, Relating to Medical Marijuana

I am Kerry Inouye, Acting Major of the Narcotics/Vice Division of the Honolulu Police Department, City and County of Honolulu.

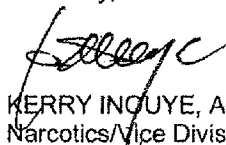
The Honolulu Police Department opposes House Bill No. 2675, H.D. 2, Relating to Medical Marijuana. This bill continues to raise concerns from a law enforcement perspective.

The Honolulu Police Department, while having compassion for those seeking relief from suffering brought on by medical conditions, continues to question the use of marijuana for this purpose, as this violates federal law. Toward this end, the creation of a task force to study issues regarding adequate supplies of medical marijuana for patients, construction of growing facilities, and interisland travel related to medical marijuana does not make sense.

The Honolulu Police Department urges you to oppose House Bill No. 2675, H.D. 2, Relating to Medical Marijuana.

Thank you for the opportunity to testify.

Sincerely,


KERRY INOUE, Acting Major
Narcotics/Vice Division

APPROVED:


BOISSE P. CORREA
Chief of Police

Serving and Protecting With Aloha

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Oakland, CA 94602
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Testimony given to Hawaii State Senate Committee on Health re: HB 2675,
MCDs & Medical Cannabis Regulation.

March 17, 2008

1. The national medical cannabis situation is rapidly evolving with a focus on the development of the California distribution system of over 400 Medical Cannabis Dispensaries (MCDs) organized as patient collectives.¹
2. In the last year or so, 2-300 MCDs have opened in Los Angeles alone. The LA City Council is preparing to control and regulate MCDs—as have SF, Oakland, LA County, Sonoma County, and 30 other local governments.²
3. The DEA and other advocates of the war on medical cannabis are losing, are aware they are losing, and are looking for an exit strategy.³

¹ <http://www.canorml.org/prop/cbclist.html>

² <http://www.safeaccessnow.org/article.php?id=3165>

³ Russoniello Weighs in on Pot Club Raids

Posted: Thursday, 31 January 2008 1:11PM

Audio Podcast: <http://podcast.kcbs.com/kcbs/886971.mp3>

SAN FRANCISCO (KCBS) - The new U.S. Attorney for Northern California has hinted there may be fewer raids on medical marijuana dispensaries.

Russoniello has made his position clear on the issue of medical marijuana.

He is against the use of the drug for medicinal purposes, questions whether it can provide any benefit to a sick or dying patient, and was opposed to

California's Proposition 215, the Medical Marijuana Initiative.

However, Russoniello has also made clear that government resources may be better spent elsewhere. He said there may be changes in enforcement practices in Northern California. "We could spend a lifetime closing dispensaries and doing other kinds of things and enforcement actions, bringing cases and prosecuting people, shoveling sand against the tide, it would be terribly unproductive and probably not an efficient use of precious federal resources," declared Russoniello.

Russoniello took over the position of U.S. Attorney of Northern California in early January. He spent 8 years in the office in the 1980s.

<http://www.kcbs.com/Russoniello-Weighs-in-on-Pot-Club-Raids/1575057>

4. The US House Judiciary Committee has expressed serious concern about the DEA's excessive tactics against medical cannabis.⁴ Local government officials in California are calling on the Committee to hold hearings on the issue at the earliest opportunity and urging the DEA to de-prioritize medical cannabis.⁵

5. MCDs in California paid 100 million dollars in sales tax last year.⁶

Thus the trajectory of medical cannabis is clear: we are headed to the end of the national war on medical cannabis. California has evolved a healthy, vibrant, locally controlled and regulated distribution system that contributes millions of dollars to the economy and to state and local government.

The question is will Hawaii be ready to participate fully in this evolution? Will it be prepared to raise its medical cannabis system to the level of compassion, access, and local control set by California? And will Hawaii extend its traditional hospitality to medical cannabis patients who visit from other parts of the United States and the world?

The task force created by this bill can and must address those and other related issues and report to the next legislature.

Yours very truly,



James Anthony

⁴ <http://www.safeaccessnow.org/article.php?id=5329>

⁵ http://safeaccessnow.org/downloads/Dellums_Statement.pdf

http://safeaccessnow.org/downloads/Dellums_Letter_to_Conyers.pdf

http://safeaccessnow.org/downloads/Santa_Cruz_Mayor_Letter_to_Conyers.pdf

http://safeaccessnow.org/downloads/Santa_Cruz_Mayor_Letter_to_Governor.pdf

Also, Statement by Councilman Dennis P. Zine, Los Angeles City Councilman, Third District, July 31, 2007: "I am greatly disturbed that the Drug Enforcement Administration would initiate an enforcement action against medical marijuana facilities in the City of Los Angeles during a news conference regarding City Council support of an Interim Control Ordinance to regulate all facilities within the City. This action by the DEA is contrary to the vote of Californians who overwhelmingly voted to support medicinal marijuana use by those facing serious and life-threatening illnesses. The DEA needs to focus their attention and enforcement action on the illegal drug dealers who are terrorizing communities in Los Angeles."

⁶ <http://www.safeaccessnow.org/article.php?id=5478>


To Whom It May Concern:

I am writing in support of HB 2675 HD2, which is in regards to the Medical Cannabis use Within the state of Hawaii. I myself am a Medical Cannabis patient due to the lack of appetite and what doctors term as wasting. This was brought on because of cancer treatment I had received as a child, and now is affecting the comfort of my living as well as the ability for me to eat and hold down meals. Since I have obtained my Medical Cannabis license, my eyes have been opened to the many challenges that this process involves as well as the many hurdles that patients must overcome in order to receive natural, organic medicine that they are able to produce for themselves.

At this point in time I humbly request that a fact finding committee be established to find out how to better provide for the needs of the patient as well as to better protect the doctors from fear of prosecution. Furthermore I would also like the fact finding committee to see how the state could better our laws so that it would be more line with other states that have similar Medical Cannabis laws and initiatives that are already in place and have been in place for several years.

Finally I would like to end by saying that there are still people who are afraid of prosecution and imprisonment that are in serious need of Medical Cannabis treatment. I was one of them, but now I need to be a patient and a voice of people who are to afraid, weak or just plain unaware of the current situation at hand. Thank you for your time.

Sincerely

A handwritten signature in black ink that reads "Makaala Rawlins" followed by a stylized flourish or initials.

Makaala J. Rawlins
Hilo

IN SUPPORT of HB 2675 HD 2 Medical Cannabis

March 17, 2008

To Whom It May Concern,

Even with a doctor's prescription for Medical Cannabis to treat pain caused by terminal cancer, my mother could not receive her Marinol (THC). This was due to complications with approval from her health insurance. To pay out of pocket would have cost \$240 - \$300 for a bottle of 15 or 20 pills. My mother was never a drug user in her life, and regular painkillers had terrible side effects on her. The Medical Cannabis was prescribed to provide a way to alleviate her pain with out all the side effects.

Please, something needs to be done to ensure that the health system works for ordinary people. It is a most difficult experience to have to watch a loved one in pain and not be able to do much for them. I recently heard that in Canada, Medical Cannabis in a whole plant spray form is legal and easily obtainable for those who are truly in need – mainly those with cancer and AIDS and persistent pain. This is a more affordable option.

It is worthwhile to look at models that are working; and to educate ourselves so that options are available when there is need. If there is less stigma and red tape around the appropriate use of Medical Cannabis, then doctors might feel freer to prescribe it, health insurance agencies might be more willing to okay it, organizations like Hospice might include it in their list of painkillers, and suffering people might find more relief.

Aloha,

Alyce Dodge / AD
Alyce Dodge

1044 Ho'omaika'i Street

Honolulu, Hawai'i 96817

FEDERAL INTERFERENCE IN STATE LAW

COSTS CALIFORNIA MILLIONS OF DOLLARS IN SALES TAX REVENUE

BACKGROUND

In 2004, with the adoption of the Medical Marijuana Program Act, the California legislature recognized the need for patients to cultivate and obtain their medicine collectively. Then, in 2005, the state appellate court ruled in *People v. Urziceanu* that medical cannabis dispensing collectives (or dispensaries) are now fully recognized as legal under state law. Indeed, dozens of California cities and counties have already adopted ordinances regulating these facilities.

The vast majority of California's estimated 250,000 qualified patients are not able to cultivate medical marijuana themselves or find a primary caregiver to grow it for them. These patients have come to rely on dispensaries for safe and reliable access to medical cannabis to treat the symptoms of AIDS, cancer, multiple sclerosis, and other serious illnesses. Dispensaries are typically storefront facilities that provide medicine and other services to registered members, whose legal status has been verified by their doctors.

RAIDS AND THREATS OF ASSET FORFEITURE

Despite the extensive evidence of marijuana's medical efficacy, the federal government continues to ignore and refute the research. In another set back for patients, the U.S. Supreme Court ruled in *Gonzales v. Raich* in June 2005 that it had the authority to arrest and prosecute medical marijuana patients and providers. Ever since that decision, the Drug Enforcement Administration (DEA) has been conducting raids, forcing the closure of more than 100 facilities. The latest tactic of the DEA is to threaten landlords with criminal prosecution and asset forfeiture if they continue to lease to dispensaries. This intimidation tactic has resulted in dozens of more closures.

DEA RAIDS IMPACT SALES TAX REVENUE

Until recently, the fiscal impact of the federal government's interference in the implementation of state law was unclear. However, in October 2005, the California Board of Equalization (BoE) established a policy to tax the sale of medical cannabis at an estimated four hundred dispensaries statewide. This source of sales tax revenue provided by an emerging health care field represents millions of dollars annually for the state. ***In fact, in 2007, more than \$100 million in sales tax was collected by these facilities and provided to the state.*** However, continued interference from the DEA threatens that revenue and denies California taxpayers a way out of their fiscal crisis in Sacramento.

ENDING DEA INTERFERENCE IN CALIFORNIA

From these sales tax revenue numbers, it is clear that the state stands to lose significant funds if the DEA continues its interference. Because California should protect safe access to medical marijuana and because we cannot afford to lose substantial revenue such as this, state officials would do well to defend dispensaries from federal interference. We welcome the efforts of State Senator Carole Migden to pass Senate Joint Resolution 20, calling on the DEA to end its harmful tactics in California, in order to preserve this revenue source and prevent the hardship that a loss of safe access represents to seriously ill Californians.

Medical cannabis advocates and providers call on state officials to support SJR 20 and other measures that would protect safe access to medical marijuana. Furthermore, advocates call on state officials to take immediate and decisive action to help end the federal interference in California's medical cannabis program.



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www.AmericansForSafeAccess.org

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Bar Memberships

CALIFORNIA STATE BAR No. 23150. Active 1999-Present.

HAWAII STATE BAR No. JD 7911. 2003-Present (currently inactive).

Legal Experience

LAW OFFICES OF JAMES ANTHONY, 3542 Fruitvale Avenue, 351, Oakland, CA 94602, (510) 207-6243 *off.*, (510) 228-0411 *fax*, principal, January 2006 – Present.

Solo law practice specializing in land use aspects of Medical Cannabis Dispensary (MCD) law. Obtain permits in locally regulated jurisdictions; defend against nuisance and zoning actions brought by local government in state court; advise local jurisdictions on appropriate regulations; advocate for MCDs in every venue. Successfully obtained cooperation of Mayor Dellums in publically supporting MCDs against DEA tactics (including landlord letters) and sending a letter to Rep. Conyers.

NEIGHBORHOOD LAW CORPS ATTORNEY (nonprofit "Community Prosecutor"), *Oakland City Attorney's Office*, 1 Frank H. Ogawa Plaza, 6th Flr., Oakland, CA, 94612, July 2003 – December 2005, \$40,000 per year.

Addressed social issues through land use regulation and civil litigation: specifically, drug nuisance properties, problem liquor stores, and substandard rental housing by prosecuting judicially and administratively, and by recommending policy directives in the form of new ordinances and implementation programs for existing ones. Enforced agency determinations judicially; defended against administrative mandamus appeals of same.

Supervisor: Jim Hodgkins, (510) 238-6135.

TELECOMMUNICATIONS ATTORNEY, *The Utility Reform Network (TURN)*, 711 Van Ness Ave., Ste. 350, San Francisco, CA, April 2001 - October 2002, \$50,000 per year.

Advocated in the public interest at California Public Utilities Commission administrative hearings. Prepared policy positions on telecommunications issues. Supervisor: Bob Finkelstein, (415) 929-8876.

ASSOCIATE ATTORNEY, *Paul & Hanley, LLP*, 1608 Fourth Street, Ste. 300, Berkeley, CA, 94710, (510) 559-9980, February 2000 - April 2001, \$64,000 per year.

Performed all pre-trial aspects of plaintiff-side asbestos-exposure litigation.

CERTIFIED LAW CLERK, *Consumer and Environmental Protection Division, Alameda County District Attorney*, 7677 Oakport, Ste. 650, Oakland, CA, 94621, 1998 – 2000.

Supported civil prosecution of unfair business practices and elder abuse.
Supervisor: Bill Denny, (510) 569-9281.

LAW CLERK, *East Bay Community Law Center*, 3130 Shattuck Ave., Berkeley, CA, 94705, 1999.

Represented welfare recipients at hearing. Co-edited county regulations.
Prepared a plain English guide to reasonable accommodations in the welfare context.
Supervisor: Ed Barnes, (510) 548-4040.

Legal Service

READER, *The State Bar of California*, 2000 - 2004
Graded bar exams semi-annually.

Legal Education

JD, 1999, King Hall, UC Davis School of Law
Class Rank: Top 20%
Vice President, Law Students Association

Political Activism and Community Service

Green Aid: The Medical Marijuana Legal Defense And Education Fund, Inc., Postal Mail Box # 172, 484 Lake Park Ave., Oakland, CA 94610
Chair, Board of Directors, September 2007 – Present.

Law Enforcement Against Prohibition, www.leap.cc
Member, Board of Directors, February 2008 – Present.
Speaker's Bureau, January 2006 – Present.

City of Oakland Measure Z (private adult cannabis lowest law enforcement priority)
Community Oversight Committee
Vice-Chair, September 2006 – Present.

Pacific Zen Institute, www.pacificzen.org (zen meditation group)
President, Board of Directors, 2004 – Present.

Presentations Given

Major Conferences:

California State Dept. of Health Early Intervention Program Conference, Long Beach, CA. April 14-16, 2008. Speaker on Drug Wars and institutional distrust.

Drug Policy Alliance International Conference, New Orleans, December 2007. LEAP (Law Enforcement Against Prohibition) panel member.

ASA (Americans for Safe Access), Symposium on Medical Cannabis Dispensaries (MCDs), November 2007. Presenter on Land Use Law.

NORML Conference (National Organization for the Reform of Marijuana Laws), Los Angeles, October 14, 2007. Special MCD Session panel member.

NORML Legal Committee NLC Conference, Aspen, Colorado, June 2007. Presenter on MCD Land Use Law.

NORML National Conference, San Francisco, September 2006. Presenter on MCD Land Use Law.

Other Events:

Testimony given to Hawaii State Senate Committee on Health re: MCDs & Medical Cannabis Regulation. March 17, 2008.

Testimony given to California State Senate Committee on Health re: MCDs & Medical Cannabis Regulation. March 12, 2008.

Clinica Esperanza (multi-lingual San Francisco HIV/AIDS clinic), presentation to staff, "Cops Say Legalize Drugs—Ask Me Why." February 14, 2008.

Physicians for Social Responsibility Conference, Stanford University. LEAP speaker and representative. February 24, 2007.

All-Day Educational Conference, Mendocino Medical Marijuana Advisory Board, October 21, 2006. Speaker on drug prohibition and the DEA.

Freedom Fest, Butte County, CA, July 8, 2006. LEAP representative and speaker.

Monterey California Tour, June 7-9, 2006. Speaker on drug prohibition issues at civic clubs, college students, policy makers, and the media. Some noted presentations were at the Marina Rotary Club, Palo Alto Kiwanis, Libertarian Party of Fresno County, and FED-UP (Foundation to End Drug Unfairness Policies).

University of San Francisco class: Chemistry of Drugs (Upper Division Seminar), December 2, 2005. Guest speaker on the interaction between drug law and drug use.

Major Conferences Attended

Alliance of California Law Enforcement, 16th Annual Legislative Day, Sacramento, CA, March 12th, 2008.

Drug Policy Alliance International Conference, Long Beach, November 2005.

Radio Appearances

KRFP Radio Free Moscow 92.5 FM (Moscow, Idaho). Interview. November 10, 2007.

KIRV 1510 AM (Fresno, CA). Discussion of Drug Prohibition. June 16, 2006.

KVPR 89.1 FM Quality of Life Show (NPR division, Fresno, CA). Discussion of the War on Drugs and other alternatives. June 9, 2006.

KNRY 1240 AM Radio Morning Show (Monterey, CA). Discussion of drug prohibition issues. June 8, 2006.

KSCO 1080 AM Radio Good Morning (Santa Cruz & Central Coast, CA). Failures of drug prohibition and discussion of alternative policies. June 2, 2006.

Publications, etc.

West Coast Leaf, Articles on LEAP, California MCD status, and Bay Area political analysis. To be published April 2008.

NORML STASH Daily Audio Podcast, California MCD status. March 3, 2008.
<http://stash.norml.org/2008/03/03/stash-for-mon-mar-3-2008>

Drug Truth Network Production Video (interviewee), "Cannabis Dispensary Information Pt 1." October 17, 2007. <http://www.youtube.com/watch?v=ZGKQVz7tzLU>

ASA blog *Medical Cannabis: Voices from the Frontlines*, "No Pattern or Rules to DEA Attacks." October 3, 2007. <http://www.safeaccessnow.org/blog/?p=12>

LEAP blog, "Cops Say Legalize Drugs—Ask Me Why." December 5, 2006.
<http://www.leap.cc/cms/index.php?name=Blogs&file=display&id=83>

Oaksterdam News, "The 'healthy-looking young man' syndrome." November 16, 2006.
<http://www.oaksterdamnews.com/index.php/V2-Issue-5/The-healthy-looking-young-man-syndrome.html>

Oaksterdam News, "Oakland Prosecutor comes out against Drug War, finds that he's not alone." March 30, 2006. <http://www.oaksterdamnews.com/index.php/V2-Issue-2/Oakland-Prosecutor-comes-out-against-Drug-War.html>

Contact us for information, support, or assistance

Yes, I want to help LEAP bring common sense to problem solving involving drug abuse and crime.

NAME _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE _____ DATE _____

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Where did you receive this brochure?

I am, or was a member of law enforcement...
(circle appropriate items)

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Prosecutor, Other _____, Current or Former

Or I am a Concerned Citizen

I wish to be an Active or Anonymous member

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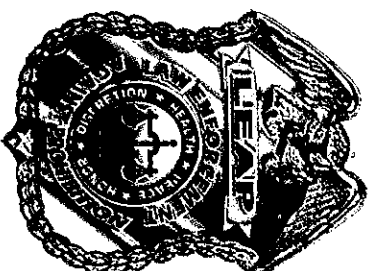
Mail to: Jack A. Cole

27 Austin Road

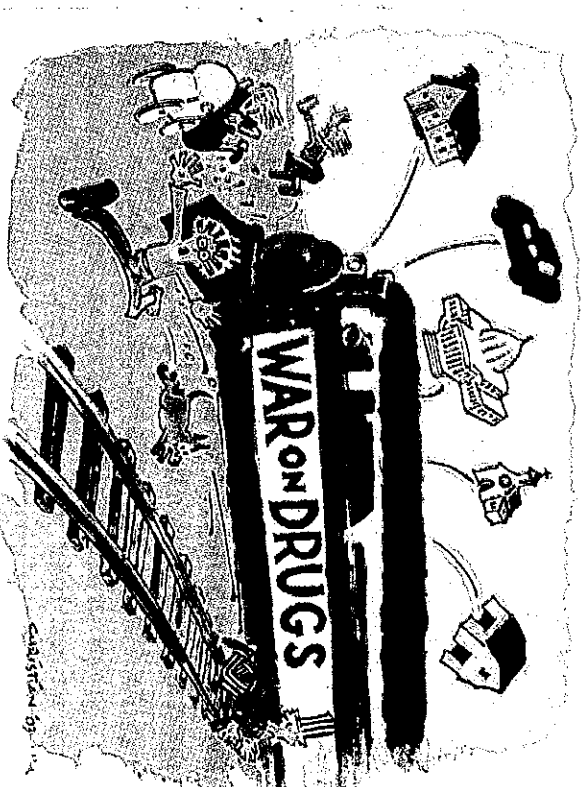
Medford, MA 02155

<http://www.leap.cc>

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Law Enforcement Against Prohibition



LEAP is an international nonprofit educational organization created to give voice to current and former members of law enforcement, who believe the war on drugs has failed and who support alternative policies of drug regulation and control that will save lives, reduce disease, lower addiction rates, lessen crime, and conserve tax dollars, by ending drug prohibition.

THE MISSION OF LEAP IS:

(1) To educate the public, the media, and policy makers, to the failure of current drug policy by presenting a true picture of the history, causes and effects of drug abuse and the crimes related to drug prohibition; (2) To create a speakers bureau staffed only with knowledgeable and articulate former drug-warriors who describe the impact of current drug policies on: police/community relations; the safety of law enforcement officers and suspects; police corruption and misconduct; and the financial and human costs associated with current drug policies; (3) To restore the public's respect for law enforcement, which has been diminished by police involvement in imposing drug prohibition; (4) To reduce the multitude of harms resulting from fighting the war on drugs and to lessen the incidence of death, disease, crime, and addiction by ultimately ending drug prohibition.

WHAT CAN LEAP DO FOR YOU?

Law Enforcement Personnel: We are a source of support and information for officials within the professions, struggling with the disastrous effects of prohibition . We can give you tips on how to safely and effectively advocate drug policy reform. Even if you are not ready to speak out, the fellowship and information provided by LEAP will provide you with an enormous feeling of validation and camaraderie.

The Concerned Citizen: You can book LEAP speakers to give presentations to students and educators or to professional, civic, benevolent, and religious organizations. LEAP can also provide you with information, outreach tools and strategies that can be used to help recruit other officials and citizens to our cause.

The Legislator: LEAP can provide knowledgeable and articulate former drug-warriors to testify before committees and forums, offering unbiased assessments of U.S. drug-war policies from people who are no longer paid to implement those policies. LEAP can be your best information resource for changing our failed drug policies.

WHAT CAN YOU DO FOR LEAP?

Law Enforcement Personnel: Please join us! If you wish to speak out about alternative drug policies, we can provide you with important venues. You may also join us as an active member without speaking for the organization or, if you prefer, you may join our organization while remaining anonymous. No matter what level of involvement you choose, you will be part of a rapidly growing, highly influential body of men and women whose voices and numbers cannot be ignored in the formulation of future drug policies.

The Concerned Citizen: Join us as a "Friend of LEAP." You can help by donating time, money, or services. There are many necessary and important volunteer jobs available. We cannot succeed without your help.

The Legislator: When you provide us with venues, LEAP speakers can testify before your committees about lowering the incidence of death, disease, crime, and addiction while saving your constituents billions of their tax dollars.