Leonard is a graduate of the Kennedy School of Goverment at Harvard, and holds degrees in public policy and chemistry. He was appointed as research assoicate in neurobiology at Harvard Medical School, and was a Fellow in policy with Harvard's Interfaculty Initiative on and Addictions, as part of Harvard's Program on Mind, Brain and Behavior. The Future and Emerging Study: A Working group on Design and Policy Implications (College on Problems of Dependency, 1999 Annual Meeting, Acapulco, Mexico) The Future and Emerging study (FEDS) is an interactive forum (in progress) of the principal figures worldwide who influence development and regulation, and consists of experts in disciplines ranging from medicinal chemistry and pharmacology to law and public policy. The establishment of this group is based on awareness of recent progress in design, whereby classical synthesis has been superceded by techniques allowing millions of variants to be rapidly prepared and

characterized,leading to marked increases in selectivity and potency as well as entirely new classes of psychoactive compounds. The current pharmacopeia inevitably will be largely replaced as a results of such advancements. Structures with novel efects upon personality, memory and learning, addictive behavior, and human performance will evolve as a consequence of this acceleration in design. FEDS affiliates recognize the need for discussion of the impact that future compounds will have upon the social fabric, attempt to identify new of interest, predict the effects from their distribution and use, and exchange ideas concerning reorganization in regulation and policy required by novel properties.' Substance Abuse in the Former Soviet Union: Evaluation of Current Indicators and Policies (College on Problems of Dependency, 1999 Annual Meeting, Acapulco, Mexico) Since 1991, Russia appears, based on widespread and virtually unanimous anecdotal reports, to have

experienced sustantial increases in substance abuse, both of alcohol and a variety of illicit substances. However, the former Soviet Union lacks a system of abuse indicators (surveys, arrestee urinalysis, compilations of emergecy room and medical examiner reports) that would document this increase and reveal its details. Various organizations, national and international-level administrative agencies and individual reseachers, have produced estimates concerning abuse and it sequelae in Russia. We collate and compare those estimates, and discuss the bureaucratic and methodological sources of the conflicts among them. This process generates all-source estimates of the prevalence of alcoholism and other forms of dependency, the associated morbidity and mortality, the physical and economic dimensions of the licit and illicit markets, and measures of official and unofficial activity to reduce substance abouse and the damage it causes, including arrest and treatment episodes. What Should State Do about

Problems in Russia?: Development of a System for Monitoring Trafficking and Use. (Policy Analysis Exercise, Kennedy School of Government, Harvard University, Cambridge, MA (1996)) Harvard University Hollis Catalog Number 006937456 An outbreak in use of the potent synthetic opiod trimethylfentanyl (TMF) occured in Moscow in the early nineties, resulting in at least 300 deaths and with the incidence of deaths alleged by some treatment providers to be significantly higher. A system is proposed for improving detection and reporting of TMF in emergency room settings and in forensic laboratories, in an effort to contain the outbreak and reduce lethality among users. A series of interviews was conducted among diverse respondents, including physicians, addiction specialists, emergency room presonnel, Moscow police, MVD officials, the users themselves, and the families of overdose victims. Notably, the Russian population in the wake of the economic reforms effectively was

naive to chronic opiate use and - particularly - synthetic opiods of this potency, as opposed to more commonly used and less harmful . Raves, Youth and (Proceedings of the 56th Annual Meeiting of the College of Dependence, National Instiutute on Abuse, Monograph Series 153) Background: In the past few years 'raves' - huge all-night 'trance-dances' with primarily youthful participants - have spread throughout the world. Fifteen fatalities in the United Kingdom from hypothermia associated with use of 3,4- methylenedioxymethamphetamine () at raves, and reported binge use of , provide for concern. This exploratory study was conducted in late 1993 and 1994 in San Francisco and New York. Methods: Participant observation of twelve raves, a convenience sample survey of ravegoers, rave organizers, law enforcement, treatment personnel, disk jockeys and rave vendors. Results: Ravegoers tend to be young (median age 18), and more diverse, ethnically and socioeconomically, than the traditional

picture of users. Use and initiation of , , and other were frequent. In a random sample (N = 385) of our survey, 79 percent reported initiating at least one illicit at a rave and 66 percent reported use at the last rave attended. use was far more common in New York, while was more widely used in San Francisco. Some methamphetamine use was noted in San Francisco; small minorities of New York ravegoers used PCP, and heroin. combinations and newer compounds (e.g. 2- CB and GHB) were reported in both cities. Few actual adverse effects were observed or reported, but many ravegoers reported dysphoria in connection with what they believe to be adulterated . Alcohol use and aggression were much less prevalent that at other events with youthful audiences, and anti-alcohol sentiments were expressed by many ravegoers. Although music was loud enough to threaten significant hearing damage, nearly all ravegoers and rave organizers seemed unaware of this danger. Discussion: Widespread

ignorance and misnformation about , combined with great demand for accurate information, make rave attendees attractive targets for harm reduction efforts. The concentration of youthful use and initiation and the introduction of new and combinations suggest the valule of raves as research sites. In particular, whether or not the reported dysphoria among users results from neurochemcial changes rather than adulteration deserves investigation. Affiliation: Division on Addictions, Harvard Medical School, 220 Longwood Drive, Building B-2, Room 231, Boston, MA 02115 Methcathinone (1) Science & Justice, Journal of the Forensic Science Society, California Association of Criminalists, July-September, 1995. Methcathinone ("cat"), a novel amphetamine analogue, is being observed in emergency room admissions in the midwestern United States. As a strong euphoriant and stimulant with a short duration of action, methcathinone abuse is growing and represents a potentially severe public health

problem. Reportedly the of choice in the Russian "speed" culture, some reporters suggest this amphetamine analogue potentially could supplant methamphetamine due to its extremely facile synthesis and the ready availability of chemical precursors. Chemcal syntheses currently are being discussed on the internet. We will present information on the chemistry, pharmacology and toxicology of methcathinone. Historical details of the pharmacoepidemiology of this substance will be described, from its widespread abuse in Russia to the seizures of the first clandestine laboratories in the United States leading to the classification of methcathinone as a Schedule I by DEA. Subjective effects of methcathinone include increased alertness, euphoria and heightened libido. Heavy or repeated use may result in agitation and symptoms of psychosis. Clinicians should be cognizant of this new stimulant of abuse. William L. Pickard, University of California, Berkeley Methcathinone (2)

Methcathinone - A Potent New of Abuse College on Problems of Dependency Annual Meeting (Palm Beach, Florida, 1994) Methcathinone ("cat") is a novel psychomotor stimulant which appeared in the Former Soviet Union in 1982 and rapidly spread. It is the of choice in the Russian "speed" culture, and reportedly is the mose widely abused illicit in Russia except for heroin. Methcathinone is chemically related to methamphetamine (being the beta- carbonyl derivative) and cathinone from the khat plant (being the N- methyl derivative). It was apparently unknown as an illicit in the United States prior to 1989, when it was synthesized in a clandestine laboratory in rural Michigan. More recently, methcathinone use has been associated with emergency room admissions in the midwestern United States and it has been classified as a Schedule I by the Enforement Administration. Subjective effects of methcathinone include increased alertness, euphoria, and libido. Heavy or repeated use may

result in agitation and symptoms of psychosis. We performed an exhaustive electronic search of the text databases of all U.S. newspapers over the last seven years and have found that new media accounts of the properties of methcathinone have varied considerably, with significant exaggeration of its properties. Nonetheless, federal agencies continue in their concern that that this amphetamine analogue potentially could supplant methamphetamine and due to its extremely facile synthesis and reported subjective preference in users for methcathinone over methamphetamine and . Chemical syntheses currently are being discussed on the internet, making methcathinone the first indicator that synthetic data for a newly scheduled may be rapidly disseminated worldwide in an uncontrolled manner, in contrast to the historically slower and more controlled routes of journal and book publications. Additionally, we note that the pharmacoepidemiology of methcathinone in the

U.S. can be traced to a single individual and site. This situation provides an opportunity to study the mechanisms involved in the potential spread of other novel of abuse which may occur in the future. We are beginning a project to monitor new psychoactive compounds with potential addiction liability. We encourage concerned researchers and clinicians to contact our group with comments and suggestions for identifying unscheduled which may achieve social use. Affiliation of authors: Kennedy School, Harvard University; University of California, Berkeley and San Francisco and Department of Veterans Affairs Medical Center, San Francisco; Harvard Medical School, Division on Addictions, 220 Longwood Drive, Building B-2, Room 231, Boston, MA 02115; Haight Ashbury Free Clinics, San Francisco. A Word of Caution on BremelanotideA WORD OF CAUTION ON BREMELANOTIDE (PT-141) In his role as a policy analyst, Leonard wishes to issue the following advisory on the

possible abuse potential of bremelanotide (PT-141): Posted April 18, 2006 1.) PT-141, recently named bremelanotide by international convention, is being developed as a treatment for erectile dysfunction (ED) and female sexual dysfunction (FSD) by Palatin Technologies, Inc. of New Jersey. 2.) Bremelanotide significantly promotes solicitational behavior in female rats, and appears to be the first true aphrodesiac. (See J. Pfaus et al., "Selective Facilitation of Sexual Solicitation in the Female Rat by a Melanocortin Agonist") 3.) In humans, bremelanotide produces an "enjoyable arousal response" and induces sexual desire within 10-20 minutes after intranasal administration, with the effects of bremelanotide continuing past orgasm. 4.) The effects of bremelanotide are in contrast to phosphodiesterase inhibitors such as Viagra, Levitra and Cialis, which do not induce subjective erotogenic effects in the absence of sexual stimulation. 5.) A 1998 patent for MTII, a less potent form of bremelanotide, described its

effect across a wide range of mammals. In U.S. Patent #6,051,555, "Stimulating Sexual Response in Females," the inventor suggested that this similar erotogenic peptide "may be administered to increase the libido of female animals in captivity [] to make them more receptive to coitus, in addition to providing male animals with increased libido [] the peptides may be administered to stallions which, for psychological and/or physical reasons will not mount a (mock) female phantom used in the collection of sperm." (See M. Hadley, "Discovery that a Melanocortin Regulates Sexual Functions in Male and Female Animals.") 6.) According to the 2003 U.S. Patent #6,579,968, bremelanotide (described therein as "Compound 1") is approximately 50 times the potency of MTII, and the effects are dose-dependent. The therapeutic window between the dose necessary for the "desired effect" and the dose that produces adverse effects such as yawning and stretching or nausea

is "1000-fold", permitting multiple doses of bremelantotide to be administered. (See C. Blood et al., "Compositions and Methods for Treatment of Sexual Dysfunctions," assigned to Palatin Technologies, Inc.) 7.) The patent indicates that bremelanotide is preferably administered by inhalation, but may be applied by any method permitting it to cross an epidermal layer, including injection, topical application, and orally in sufficient dosages or in the presence of a penetrating agent for peptides. 8.) Carl Spana, PhD, CEO of Palatin Technologies, Inc. has been quoted as stating that bremelanotide aroused female rodents "so quickly they started mounting males" and that it may "easily" be made into an oral form. (See article from Observer: By Robin McKie, science editor) 9.) Currently, about 400 men and less than 100 women volunteers subjects have been exposed to bremelanotide in Phase 1 and 2 clinical trials and in "at-home" settings. 10.) It is the intention of Palatin Technologies, Inc. and

King Pharmaceuticals, Inc. to distribute bremelanotide worldwide. 11.) Distribution of bremelanotide may parallel the epidemiology of Viagra (sildenafil), resulting in wide-spread casual use by non- patient populations, international availability without physician evaluations, counterfeiting, and clandestine manufacture. 12.) The marketing of bremelanotide will be similar to that of Viagra, including frequent full-page newpaper and television advertisements, resulting in a secondary "grey-market" with bremelanotide avalable from numerous internet sources in the absence of medical diagnoses. 13.) However, in contrast to the relatively non- problematic non-medical use of Viagra, the subjective erotogenic qualities of bremelanotide may ultimately pose a hazard to the public health. 14.) Bremelanotide appears to possess the liido-enhancing properties of and methamphetamine, but without the central stimulating effect of these substances. 15.) While recognizing that

bremelanotide may be effective in ameliorating clearly- defined instances of FSD or ED and may be successfully employed as a marital adjuct, global distribution of an erotogenic that selectively induces sexual response may also result in signifiant societal problems, viz.: a.) unanticipated social consequences from non-medical use. b.) substantially heightened promiscuity across age groups and genders. c.) surreptitious administration to unwitting individuals, resulting in -induced consensual sexual activity among individuals that would not consent in the absence of the . d.) a increase in "date-rape" in conjuction with flunitrazepam or other . e.) an increase in the incidence of prostitution, including the 's employment in human trafficking. f.) an increase in sexual crimes, including rape, gang- rape, and child abuse. g.) uncontrolled use among minors. h.) abuse among users of crack , , or methamphetamine. i.) abuse among populations that would not normally employ any

unprescribed . j.) overdose scenarios requiring medical intervention. k.) medical complications from acute or chronic use. l.) an increase in sexual aberrrations that are rarely seen by clinicians. m.) increased incidence of AIDS and other sexually transmitted diseases. n.) increased incidence of unwanted births, and among lower age cohorts. o.) the advent of criminal organizations specializing in manufacture or distribution of this or related substances. 16.) Compounding the possible threat potential are two factors: a.) bremelantotide is an easily synthesized peptide that may be manufactured by numerous means known to the art - including table-top automated procedures - and from relatively inexpensive and ubiquitous precursors; and b.) while easily produced, the dosage range employed in clinical trials is also modest, ranging from 10-20 mgs. Thus, each kilogram of bremelanotide contains 50,000- 100,000 dosage units, facilitating its transport or smuggling. 17.) Currently, the

results of clinical trials on bremelanotide are reported to the FDA by the developer, Palatin Technologies, Inc. Self- reporting of clinical trials may be subject to inherent bias, e.g. as observed in the case of Vioxx and other . 18.) It may be noted that of the more than 400 controlled substances, almost all are products products of efforts by the pharmaceutical industry to develop effective medicines. 19.) However, some researchers have proposed that the underlying disorders providing the rationale for developing bremelanotide, e.g. female sexual dysfunction (FSD), may be in some instances constructs of the pharmaceutical industry. 20.) Nevertheless, it is asserted that current FDA protocols may be inadequate to provide early warning of the breadth of an imminent hazard to the public health posed by new cognitive agents, in this case those affecting libido. 21.) It is suggested that FDA discontinue clinical trials of bremelanotide until public hearings are conducted on the potential

abuse liability of this and related compounds by regulatory agencies, including FDA, HHS, DOJ, and the Commission on Bioethics. 22.) It is further asserted that, in the event bremelanotide is not approved by FDA, bremelanotide and related agonists may continue to pose a hazard due to off-patent international manufacture and distribution. 23.) Federal agencies are encouraged to make early inquiry among volunteers in existing bremelanotide clinical trials and among independent users to properly assess the range of use or abuse that may occur. Such inquiry should include assessment of the increasing internet interest in off-patent availability of bremelanotide and similar melanocortin agonists. 25.) It is proposed that - at the inception of any effort at design of cognitive agents by industry - independent reviews be conducted on the possible social liabilty of a compound affecting primary human emotions. 26.) It is further proposed that a policy advisory group be established to

continually identify novel cognitive agents under development by the pharmaceutical and biotech industries, in an effort to anticipate the social impact of such agents. Researchers, volunteer subjects, independent users of bremelanotide,and concerned individuals and organizations are encouraged to comment on this advisory to bremelanotide@freepickard.org New Developments 1.) To:bremelanotide@freepickard.org Date: Sun, 25 Jun 2006 An individual recently blogged that the Postal Service seized the bremelanotide he had ordered from overseas. (click here for "Notice of FDA Action") *link to* the message below: Notice of FDA Action A mail shipment addressed to you from a foreign country is being held by the post office at the request of the U.S. Food and Administration. Product Description: 250mg Bremelanotide powder in 4.5cmx1cm (Height x Diameter) clear plastic vial with red screw cap. DETAINED 06-01- 2006 The following products are subject to refusal of

admission into the United States under authority of the Federal Food and Cosmetic Act (FD&CA), Public Health Service Act(PHSA), or other related acts in that they appear to violate as indicated below: 505(a), 801(a)(3); Unapproved The article appears to be a new without an approved new application. This Notice does not in any manner accuse you of violating the Law. L.W.L. (name withheld), Compliance Officer U.S. Food and AdministrationInternational Prevalence — Factors Affecting Proliferation and Control by William Leonard Pickard This paper is presented in memory of John Spencer Beresford, M.D., who passed away on September 2, 2007. In Basel in 2006 John—a psychiatrist and seminal researcher—presented a review of prisoners and John's work with the Unjust Sentencing Project. The author of this paper, Leonard Pickard, was—and continues to be— one of the prisoners John discussed, and this paper necessarily is being presented in

absentia. John had hoped to do this presentation at Basel 2008, and communicated on its content until his death. The author, under presently very difficult conditions, wrote this paper by hand, based on personal recall and with limited references that will eventually be supplemented in web format. The author is incarcerated for multiple life sentences for alleged synthesis, in what has been described as the "the largest lab seizure ever made by the Enforcement Administration," discovered in 2000 in an underground, former Atlas-E nuclear missile silo in Kansas. After denying the charges, he was subjected to the longest trial in Kansas history. At the time of the incident, the author was a researcher in public policy, particularly involving new of abuse, and held appointments as a policy fellow at the John F. Kennedy School of Government at Harvard, and as a research associate in neurobiology at Harvard Medical School. His work did not concern other than incidentally, but included three issues: 1)

studies of heroin trafficking in Central Asia and Afghanistan; 2) the proliferation of clandestine laboratories in Russia and the Newly Independent States and involving such as fentanyl, methcathinone and ; and 3) the advent of new , such as trimethylfentanyl in Russia and the use of pharmahuasca mixtures by religious groups in New Mexico and Amsterdam. More recently the author has litigated in federal court concerning DEA and FDA regulation of the proposed aphrodesic bremelanotide and related compounds. For some years as a policy analyst, and after incarceration, the author has interviewed numerous manufacturers and distributors of illicit , including heroin, , methamphetamine, fentanyl, and , and the observations that follow are derived in part from those interviews as well as substantive exchanges with medical and public health researchers, forensic personnel, criminologists and other policy analysts. For legal purposes it is necessary to state that this paper is presented

as a preliminary research effort to apply as a model in addressing certain contemporary issues in these fields, and does not support or condone any illegal activity at any time. The premise of this paper for this gathering in Basel is that while a significant and growing number of medical researchers—many of them in attendance—are looking carefully at initially a small number of subjects, there are relatively few researchers rigorously considering the large numbers of individuals in the population who have experienced . Thus, in that this forum provides an opportunity to examine in its uncontrolled, epidemiological context, we will explore here some of the rarely discussed factors influencing past and current worldwide availability and prevalence, as well as future trends that may be anticipated. In essence, we ask: "What is the future of use in non-medical settings, given its special chemical, pharmacological and psychological properties?" To answer this question we review not only the

national survey data but also the known history of production and distribution for— although future trends involving heroin, and methamphetamine have been predicted in forensic settings, albeit with a large degree of error —there is little literature on factors influencing availability. With regard to the debate over medicalization versus unrestricted use, it is observed that the interest in medicalization of this compound has been driven largely by the experiences reported by the large number of illicit users themselves. While medicalization of any , including , is a reasonable goal if unbiased, controlled studies consistently reveal that the may have significant medical application in a limited set of well-characterized medical or psychiatric disorders, it also has been argued that the nature of the experience as reported by users cannot be contained solely within the medical paradigm, in part due to variously reported broad subjective effects characterized, for example, as

religiosity, esthetics, introspection and insight. While medicalization may yet yield successful treatment for certain specific disorders, or may ultimately lead to limited government sanctioned environments in some countries where individuals without psychiatric disorders may safely experience the under medical or otherwise licensed supervision, the fact still remains that since 1943 only a few thousand individuals have had supervised sessions with provided by government sources, whereas survey and production data suggest that hundreds of millions of individuals have had from non-government sources and in medically unsupervised settings. With such a currently disproportionate ratio of subjects it is this latter population as a whole we wish to consider, for while the process of medicalization has been underway for some decades now —with incremental advances well-noted in this forum —the parallel uncontrolled and informal availability has continued for 65 years and may

do so indefinitely, influenced by factors we will now discuss. First, since effectively all available to the public is illicit, and we wish to analyze the factors influencing supply in order to project the future of non-medical use, it is helpful to know both the prevalence of in society and the more difficult to assess figures for the amount produced in clandestine settings. Our central question is then, "How do these percentages vary from year to year and why, and how may this data be used as a predictive tool for future trends?" Our analysis here must be guided by, and very much limited to, the standard U.S. surveys that have existed for decades describing indicators of prevalence for all . Although several surveys exist, we will consider two of the most cited surveys in public health and criminological literature: the Abuse Warning Network—or DAWN—and the Monitoring the Future survey—or MTF. The MTF survey title is somewhat misleading to granting agencies in that the annual results report data from four to

16 months in the past rather than anticipating future trends, and researchers are regularly surprised by new development while recording their histories of use reported by different age cohorts. The DAWN data focus on a wide spectrum of controlled substances and licit medications and recording, for example, emergency room visits in which the is noted, whether or not the is responsible for the visit. Federal enforcement agencies, which we will limit here to DEA and the office of National Control Policy (ONDCP), rely upon these surveys to describe their concerns or successes during their annual solicitation of funds from Congressional appropriations committees, and produce public statements and charts showing the declines in prevalence or ER visits from years to year for various while correlating these declines against their seizures of or arrests of individuals or organizations. However, "correlation does not imply causality," that is, a decline in availability—in our context and —

cannot be correlated with any particular enforcement action. Indeed, the supply of and appears to be mainly independent of such seizures, and dependent on other factors. Thus, enforcement agencies rationalize their efforts by asserting an incapacitation effect—the removal of suppliers by arrests —and a deterrent effect, the reduction in supply due to fear of arrest. However, it is suggested that with regard to the variation in prevalence of and between 1996–2006, it is a substitution effect that is a primary factor—the use of a other than —in this instance and to a limited degree what MTF and DAWN classify as "other cinogens" by the same age cohorts. The MTF data for and are most interesting to compare for the period 1996–2006. Although our concern here is prevalence, we discover that the appearance of in the surveys, first recorded in 1996, followed by an unprecedented and unusually steep rise—for any historically—suggests that this great influx of availability and use had a displacement or

substitution effect on use among the same cohort. prevalence as observed by the MTF study, has undergone a steady decline each year since a peak in 1996. policy analysts who consider these surveys also observed a remarkable and seemingly inexplicable drop in prevalence in 2001, to the lowest level of availability and use seen in decades. This sudden decrease, due to then unknown factors, prompted written commentary on slate.com and other venues with articles entitled, e.g. "Where Has All the Acid Gone?" The DEA's reply to this question, then and now, is that DEA alone was wholly responsible for the decline in availability due to a single enforcement action in Kansas in 2000 entitled “Operation White Rabbit”, thereafter attempting to utilize the MTF and DAWN data in asserting a 74% decline in availability due to White Rabbit. Indeed, DEA’s annual appropriations requests to the U.S. Congress in 2005 and 2006 were based in part on this unopposed interpretation of the

MTF and DAWN data and the seizure of one clandestine laboratory. But were they correct? The DEA website shows a simple chart reflecting the DAWN data and the steady decline since 1996, but with an arrow pointing at November, 2000, the month of the Kansas seizure. There is no mention of factors causing the decline since 1996. However, a more careful review of the MTF and DAWN data suggests that the DEA interpretation was inaccurate for—it is submitted—a single laboratory or even the several laboratories seized between 1996– 2000, are unlikely to strongly influence national or international prevalence figures for due to the redundancy of the many labs and distributors that cumulatively are responsible for availability. In support of this observation, and conflicting with the DEA interpretation, are the following facts: While was experiencing a steady decline since 1996 and a marked decline in 2001, use had a strongly positive—almost epidemic— 800% increase in the same period,

thus suggesting a substitution effect. For when a new suddenly becomes widely available to a user population, particularly of a similar class of , substitution effects are inevitable and promoted by the limits of time, cost, and interest of the user population, in this instance the 18–24 age cohort. Although the MTF explanation in its 2003 annual summary for the decline in 2001 was based entirely on DEA's claim of the Kansas seizure, the MTF report in 2005—after MTF received the author's discussion of substitution effects and unpublished details of the Kansas case—began to include substitution in its theory of events in its annual report, although without attribution. In 2007, DEA continues to refer only to the earlier MTF report, neglecting to address the reality of substitution effects common to all use. What were the unpublished details submitted to MTF supporting the observation that single laboratories do not significantly affect national survey results? According to government

testimony, the Kansas lab was not operational in 2000 but simply stored, and was allegedly only periodically operational in Colorado and New Mexico from 1997 through July, 1999. Thus, the lab purportedly began production the year after the steady decline in availability began in 1996. Any DEA explanation based on the absence of this lab must also account for its presence. It does not. Put another way, if an agency attributes the 2001 drop to a single lab, there must also be a corresponding and significant increase in availability when the same lab begins production. Nor, as we shall see, was there a significant rise or decline in availability from the presence or absence of any seized lab between 1976 and 1996. We may begin to infer that availability is not the outcome of the incapacitation of a single lab or the small cluster of loosely affiliated manufacturers—DEA suggests six—that allegedly are responsible for most production, but rather the outcome of the redundancy of an unknown and much larger

number of smaller, independent point sources that arise and disappear due to several factors—other than enforcement's incapacitation and deterrent effects—that we will discuss. In sum, DEA asserts—in the case of — one or a few labs can supply the international demand. It is here suggested that is more similar to in that the ubiquity of such labs means the absence or presence of one or a few has no observable effect on surveys. As an extreme example of this phenomenon, the seizure of any methamphetamine "superlab"— against the background of the 6000 or so seized labs and the greater number of undetected labs—has no discernable effect on methamphetamine ER admissions. To explore this lack of correlation between the MTF and DAWN surveys and the DEA's assertions of an incapacitation effect on labs—and further to reaffirm the lack of observable variations in availability from either the initiation or cessation of production of such labs, as opposed to the aggregate effect of

multiple point sources—a brief history of the most frequently cited clandestine laboratories and their estimated total production is in order. The confidence level on these estimates ranges from medium to high. Between 1965 and 1967 the well-publicized efforts of Owsley Stanley allegedly led—in the U.S.—to the ’60s phenomenon of experimentation. Stanley’s labs in Los Angeles (1965), Pt. Richmond, California (1966) and Denver (1967) produced a total of 400 grams, for which Stanley was sentenced to three years after his arrest in Orinda, California in December 1967, where 67 grams were seized. In 1968–1969 the Windsor, California lab of Nick Sand and Tim Scully produced 1,100 grams in Windsor, distributed through the Brotherhood of Eternal Love as "Orange Sunshine" in 240-microgram tablets. Nick Sand was sentenced in 1974 to 15 years for his work in the 1968–9 Windsor lab and 1972 labs in St Louis and Fenton, Missouri which produced an unknown quantity of (also

distributed as "Orange Sunshine"). Tim Scully was sentenced in 1974 to 20 years (later reduced to 10 years), and paroled after one-third time under 1980s law for his work in the Pt Richmond, Denver and the Windsor labs. While Scully was released after serving 3-1/3 years due to community service and support, Nick Sand departed to Canada and continued his efforts. In 1968–1970 the Paris and Orleans labs of Ron Stark and Tord Svenson purportedly produced several kilograms of and from 1971–1972 their Belgian laboratory reportedly produced another several kilos, all distributed via the Brotherhood of Eternal Love as "Orange Sunshine." Stark eventually was arrested in Italy in 1975, where he served four years. He was arrested and deported in 1983 from Holland to the US where he faced conspiracy charges, in US v Sand and Scully et al. in San Francisco, but the charges were eventually dropped in 1983. He died in San Francisco in 1984 from a heart attack. In 1975 the MTF survey began

collecting data, while DAWN began collecting data in 1994. In the mid-late 1970s in the UK, the "Operation Julie" group of Richard Kemp, Henry Todd, David Solomon, Andy Munro, et al. produced several kilograms. In March 1977 British agents in Operation Julie arrested over 100 suspects, with the latter receiving sentences ranging as high as 13 years. During the period 1970–1980 in various locations the manufacturing chemists Bill Weeks and associates are alleged to have produced several kilograms, as did Tord Svenson from 1974–1990 in locations in Europe, Arizona and New Mexico. The Clearlight system allegedly began small scale production in Santa Cruz in 1968, moving on to larger scale production in San Francisco in the early 1970s, reportedly producing more than a kilo. In the 1980s the Clearlight group of Denis Kelly in Burnt Ridge, Oregon began producing the gelatin form of known as “Windowpane.” Several individuals were sentenced to ten years, with Kelly

eventually surrendering after negotiating a sentence of two years. In the 1980s several major German labs began production, although details on these sites are lacking. Those with information on these labs or other labs not mentioned in this time frame are invited to contact the author. In 1988 in Mountain View, California a lab attributed to the author was seized along with 34 grams, and for which the maximum state sentence of five years was served. No production figures were estimated by state or federal authorities. In 1996 in Port Coquitlam, British Columbia near Vancouver, Nick Sand was arrested, after 20 years as a fugitive, with a lab and 43 grams. While the lab was described by Canadian authorities as the major supplier of , the production figures are estimated to be about one kilogram. For both the 1969 Windsor lab and the 1996 Vancouver lab, Nick Sand served a total of five years. There was no precipitous decline in 1996, however, rather a long, steady decline even as the Kansas

lab purportedly began production from 1997 through July, 1999. In 2000 in Kansas the DEA announced the seizure of 50 kilograms of and a lab alleged to be the author's, with this figure consistently through the current date reported in DEA websites, Congressional hearings, and even appellate decisions. However, at sentencing in 2004 the DEA technician stated that the 50 kilograms were solvents later discarded by the author, and DEA analysis of this discarded material yielded less than 196 grams of unusable that was actually seized. The total production of this lab remains unknown. Six kilograms of ergot alkaloid was seized, and months after the incident the primary informant was discovered to have—as government testimony characterized it —"stolen" an additional twelve kilograms of alkaloid prior to directing enforcement agencies to the lab, with this material later seized from the informant in 2001. Interestingly, at trial—in an effort to explain the lack of an increase in availability

during the time the lab allegedly was operating —the government asserted the itself was distributed in Europe rather than the U.S., conflicting with its later assertions to Congress. Indeed, from observing the MTF/DAWN data from 1976–2006, it may be observed that no lab whose seizure was described in the media has had any effect on survey results while beginning production and, arguably, while ceasing production. Since only a few labs have been seized, most are described in the media as the "largest", while actual production figures are usually unavailable. By comparison, the many existing small labs are less easily detected, easier to move, and of shorter duration in productivity, yet their aggregate output from many point sources creates the baseline availability of . We may consider the 2004 case of Casey Hardison in the U.K. as an example, for this lab was small enough to fit into a bedroom, producing limited quantities of 2C- B (1Kg) and tmd (75g), and with nine grams of

later seized, although prosecution argued that at total of 188g had been produced calling it the most complex illicit laboratory since Kemp in 1977. Although arguing on appeal for a reduced sentence based on quantity and citing the Kansas lab to demonstrate the disproportionate production to the court, Hardison nevertheless was sentenced to 20 years. However, under U.K. law, he is eligible for parole in half the time, and will be released from HMP Ford in as little as four years and six months at the time of writing. He invites correspondence from researchers and other interested parties. In additional support of the proposal that the U.S. and international availability of arises primarily from the cumulative output of numerous small labs— somewhat similar to the lack of variability in survey results of availability even after seizures of major labs, we may note the price structure data in Europe and the U.K., where prices have shown little variability for decades, and cannot be correlated with any

single lab seizure. If, then, incapacitation effects on availability from the occasional lab seizure are minimal or nonexistent, what is the deterrent effect from fear of arrest by manufacturers and distributors? More specifically, what are the other deterrent factors—not only fear of arrest — that limit manufacture? What are the constraints on any one site's productivity? What is the effect of precursor control programs on such sites, and what factors limit or enhance the proliferation of multiple sources? In sum, what are the factors that—now and in the future—contract or expand the availability of , excluding demand, price and public perception of effects? Examining the intrinsic factors affecting manufacture, the author's interviews have indicated several of particular consequence. The intrinsic factors include the physical properties of the clandestine lab itself, the psychological effects particular to the itself, and the covert-lifestyle required of suppliers. The extrinsic factors include the precursor control programs

in effect by various governments; and improvements in enforcement methodologies directed at control or any criminalized activity. Factors that expand availability include the opposing psychological and physical properties particular to the itself and resulting in multiple point sources, and advances in synthetic procedures specifically adapted to clandestine environments. While reasserting the author's caveat on illicit endeavor, each of these factors will be briefly discussed, focusing on enforcement strategies that successfully contract all availability. The most widely recognized constraints on aggregate clandestine lab production—thus availability observed by MTF and DAWN— include the limited incapacitation and deterrent effects from the obvious legal controls in the U.S., and the onerous mandatory minimum sentences based on the number of doses, the weight in grams, and prior felony convictions of any nature. These are among the most severe penalties internationally, although

the rational basis for such sentencing relative to more problematic remains unclear. For example, in 2005 DAWN indicated that emergency room visits for —generally for temporary disorientation and anxiety among first-time users—was only one four-hundredth of the number of visits involving , the latter with its known addictive properties and lethality. Specifically, there were 1,864 visits versus 816,691 visits, and with the visits strongly disproportionate for severity of medical problems. In Congressional testimony on July 25, 2000 a DEA official admitted, "Most users of voluntarily decrease or stop using it over time, since it does not produce the same compulsive, -induced behavior of and heroin." Similarly, use is not criminogenic in the sense of associated criminal activity such as violence and theft, which frequently accompany use of stimulants and narcotics. Thus, while allocation of substantial enforcement resources appears to be misapplied with regard to the relatively

minor social problems associated with use, U.S. penalties often continue to be described— for all —as "draconian". For example, among prisoners in the U.S. one physically disabled, chair-bound 35-year-old father of two— Roderick Walker —is serving a life sentence for 500 doses of . While it is conceded that such severe controls have a limited deterrent effect in reducing distribution, it is proposed that the aggregate cost to society from such lengthy imprisonment outweighs the putative social benefit from the reduction in use. Keeping Roderick Walker alone imprisoned for life will cost almost three million dollars—for 500 doses —funds that could produce a greater deterrent effect or result in greater benefit if applied to social programs and education. Other than the deterrent effect of severe penalties, what are other generally unreported factors that result in the contraction of the general supply or which apply only to ? To answer this question the author, as a policy analyst, has conducted

interviews in the community and in prison settings of numerous manufacturers and distributors of methamphetamine, heroin, , PCP, fentanyl, and . We will limit this discussion to , and consider certain rarely addressed special characteristics of clandestine labs that influence availability. Of course, location and size of clandestine labs determine in part total productivity per year. Labs frequently tend to be rural, with sites found in remote desert or mountain environments, although there are exceptions such as the 1967 and 1968 Denver labs and the St Louis, Belgian and Paris labs in the 1970s discussed earlier. This remoteness, while reducing the probability of detection by enforcement agencies, also makes access to the site more difficult and requires lengthy periods of social isolation for the manufacturer. Isolation also reduces productivity due to lack of ready access to supplies of chemicals and equipment. Another rarely addressed factor limiting clandestine production is the unusual

potency of . In that specialized devices such as efficient fume hoods, anaerobic conditions, and full protective clothing with face shields and breathing apparatus are less effective or nonexistent in clandestine environments—particularly in larger labs— manufacturers have difficulty during the synthesis in preventing constant exposure to large quantities of and are frequently subjected to incidental doses of 50 micrograms to many milligrams of each day. is absorbed through skin contact with -containing solvents, through inhalation of dried particulate forms of , and through ocular solution. This incidental exposure to unknown quantities of as chronic and acute doses over weeks and months — together with the anxiety from fear of detection and arrest and the sense of dissociation from conducting a covert- lifestyle —all result in psychological stresses beyond that of a simple low-level experience. The exposure effects are generally proportional to the size of the lab, with smaller labs having

greater control over incidental . Although manufacturing chemists are routinely exposed to for protracted periods, a protective effect has been noted in what has been described as “saturation”, wherein rapid tolerance to the is built up in the first few days of exposure, after which the subjective experience in terms of peak effects are significantly lessened. Nevertheless, except for periodic breaks, production tends to continue through a series of batch syntheses for indefinite periods—sometimes years—until either an arrest occurs in the distribution network or of the manufacturer, or otherwise until a personal decision is made to cease activity, or there is a temporary or permanent interruption in the supply of precursors or other requirements. Exposure effects with other , most notably the synthetic morphine substitute fentanyl, have been observed and provide an interesting example. While fentanyl exposure can be lethal, and is not, and fentanyl production is much rarer

than , both are effective at about 100 micrograms. In the U.S. in the 1980s fentanyl suddenly appeared among heroin users in California— resulting in over 100 deaths—then suddenly disappeared, with the absence of fentanyl attributed to the death of the manufacturer from inadvertent contact. If our premise is correct that supply is redundant—having a larger number of point sources—and incapacitation appears not to affect availability, what are the other factors limiting supply? Certainly, other constraints on production of all include successful enforcement efforts that control specialized lab apparatus and—particularly— reagent chemicals and essential precursors. In the case of it is this last factor—precursor control—that merits further discussion. Since 2000, interviews by the author with manufacturers, and review of court transcripts wherein DEA technicians have publicly and explicitly described details of various syntheses, indicate that clandestine

production is rarely if ever achieved by using published procedures or patents involving Claviceps purpurea, Claviceps paspali and other fungi, even in submerged culture, nor are biotech methods employed in clandestine situations. Instead, effectively all is synthesized by the initial hydrolysis of ergotamine tartrate (ET) or other ergot alkaloids to lysergic acid, thereafter to the diethylamide. The licit world pharmaceutical production of ET from source countries is about 15,000 kilograms annually, with ET subject to strict precursor controls since the early 1990s in most countries —which may be a major factor in the decline since 1996— but with fewer or less effective controls in the third world. Since the advent of Sumatriptan and other remedies for migraine headaches, the world demand for this purpose has declined, although offset by the increase in population. This synthetic bottleneck, the dependency on ET supply, may be the most important single factor affecting proliferation of clandestine

laboratory sites— excluding the synthetic hurdles themselves—and this effect on worldwide availability has been successfully exploited by enforcement agencies that nonetheless prefer to assign decreases in availability to more newsworthy arrests. In the unlikely event a practical alternative synthesis of the lysergic acid moiety is eventually invented, prevalence of may be decoupled from the requirement for ET and increases in availability will be observed due to the increase in point sources, or numerous small labs. A dramatic example of ubiquitous alternative sources arising from attempts at control may be seen in enforcement agencies' efforts in the 1980s to suppress methamphetamine labs. After observing a similar synthetic bottleneck involving phenyl-2- propanone or P-2-P, the synthetic precursor of choice for methamphetamine and available in large quantities only from a limited number of chemical firms, agencies criminalized

unlicensed possession of P-2-P, forcing illicit methamphetamine manufacturers to seek other synthetic methods using uncontrolled precursors. They arrived at a simple process requiring little or no equipment and using the cheap, plant- based precursor ephedrine, available worldwide from thousands of sources. The result was an unanticipated and explosive increase in point sources of methamphetamine, with thousands of labs seized annually in the U.S. alone, and the abuse of methamphetamine became observed even in rural areas and among previously naive populations. Precursor control programs, while effective in reduction of the supply of synthetic , are somewhat undermined by the increasing internet availability of chemicals and laboratory apparatus, the advent of simplified synthetic procedures on the net, and the resale of chemicals through the industrial recycling firms. prevalence alone remains directly proportional to precursor availability, with no alternate sources of ET or

lysergic acid. The author's interviews at the Precursor Control Unit of the UN Control Program in Vienna in 1996 indicated that precursors or requisite chemicals for all illicit – and particularly heroin, , methamphetamine and —may be diverted along the routes of shipment from the source countries to the end user, particularly in free-trade zones or during transshipment through multiple countries, then relabeled and shipped to illicit organizations. Although the UN program is successful in many instances, the relative rarity and comparatively small bulk of illicit ET shipments— perhaps less than 100 kilograms worldwide annually—in contrast to the thousands of tons of reagents for heroin and , suggest that efforts to prevent diversion of ET may not be cost- effective with regard to its relative social consequence. Proliferation or constraints on availability also relate to either synthetic problems or advances in the art. The early major labs, e.g. those of the Brotherhood of Eternal Love in America and

abroad, used the "Garbrecht method"—by more recent technologies a difficult and unwieldy but effective procedure— using the noxious reagent sulfur trioxide and requiring the recycling of the significant quantity of the reaction byproduct iso- to achieve higher yields. In the 1980s methods using peptide- linking reagents such as carbodiimidazole became widely used, with significant increases in yield. More recent advances discussed by DEA technicians in public proceedings and thereby potentially influencing availability involve the use of reagents that result in a one-step reaction producing that does not require column chromatography to remove the very minimal iso- byproduct, and that may be subject to standard bench methods to achieve higher purity. Thus, yields of that are now practically achievable reportedly approach the theoretical limit for conversion of lysergic acid to . And what of the future, synthetically? For decades, most has been produced in clandestine labs in

large glass reactors, hydrolyzing as much as one kilogram of ET at once, followed by weeks of further reactions and purification processes, all while the manufacturing chemist is exposed to the effects of . Any single site at this level is estimated to produce less than a few kilograms annually, as noted earlier in the various lab seizures since the 1960s. However, in recent trials government witnesses described the appearance of new technologies that may be employed by more sophisticated organizations that reduce or eliminate the exposure problem while automating the synthesis into a scalable pilot plant or industrial procedure. In that, for , a pilot process would produce in excess of ten kilograms per year, the advent of microreactors in the pharmaceutical industry must be addressed. A bank of microreactors is a fully automated, computer controlled, tabletop-size machine that produces a few milligrams of a substance with each cycle, perhaps employing the same reagents and syntheses previously

discussed, although on a very small scale. However, this cycling of a bank of microreactors producing a few milligrams is repeated indefinitely with hundreds of small reactions by each microreactor daily, yielding, for example, 10–30 grams of product each day. For the pharmaceutical industry, microreactor arrays have produced hundreds of kilograms each year of highly specialized pharmaceuticals that are otherwise difficult to synthesize or problematic due to exposure of workers to toxic effects. This technology— while requiring highly skilled individuals and having significant costs of entry—is easily adapted to current syntheses for and may result in the first automatic process for its production, with routine bench procedures being relegated to smaller, conventional labs. And what may be the future for the molecular structure itself, a compound heavily researched for 65 years for potential medical applications, yet subject to severe criminalization throughout the world?

has a de facto status similar to that of morphine or , i.e. an old with medical application but significant uncontrolled use, and no efficacious substitute. Similar to morphine, there is no replacement for the special properties of , no analogue or derivative of the ergolene structure that has substituted directly for it either in licit research or in general availability. Certainly, the private organizations that provide research grants do so almost exclusively to medical researchers and not post-doctoral medicinal chemists, and this oversight means that creative research on new variants is quiescent. Yet, many researchers have suggested that structures be developed that may reduce the duration of effects from ten hours to a more medically manageable few hours, or to ameliorate the dissociative or anxiety-inducing effects, thus improving the potential for medical use, and at the same time a second generation structure might yield significant substitution effects and reduce the incidence of complications in

uncontrolled use. Similar arguments may be made for reducing the toxic properties of . Yet these developments must await funding organizations' awareness that medical application of any is ultimately driven by the underlying advances in medicinal chemistry as, indeed, this conference is the outcome of a search for structural variants in 1943. But what countervailing and increasingly pervasive and sophisticated enforcement technologies—applicable to all illicit —oppose these developments and tend to contract availability, or that affect all criminalized activity? We will first address methods developed in the last 30 years, and computerized since the mid-1990s, that specifically influence all prevalence internationally. This analysis is derived from entirely open source, publicly available records, including various transcripts of trial and appeals, and is provided for public health and forensic research purposes only as one factor influencing availability, and is not intended to

assist individuals in illicit endeavors. While investigative methods applied to any crime generate reports of investigation for data banks —including those already known to the public and routinely described in the media—some are increasingly effective in reducing crime by employing specialized technologies earlier utilized by intelligence agencies concerned with more serious national security and foreign intelligence matters. Indeed, civil libertarians have raised concerns about the application of data banks and data mining in the post -9/11 era —arising from the Department of Defense's software programs known as TIPSTER —to civilian matters involving nonviolent use and other victimless crimes. Because use, distribution, and manufacture are in themselves essentially private transactions between consenting parties—as opposed to public violent crimes—enforcement agencies must use more intrusive methods to obtain arrests, and these intrusions may involve arguably extra-

Constitutional actions not infrequently unreported and overlooked by the courts. Some of these generally known methods include the use of specialized surveillance techniques and the use of informants. Surveillance includes visual surveillance of people and locations using, e.g. plainclothes individuals or teams, frequently in radio contact with multiple vehicles or aircraft, as well as placement of transmitting devices on vehicles or in deliveries to track people or shipments to their ultimate destinations, for example, rural laboratories. The requirement for tracking devices has been lessened with the arrival of anti-theft and positioning systems already installed in new vehicles. Other routine surveillance methods known to the public include analysis of credit card information and telephone records to identify the time and place of events, themselves subject to routine and retrievable video surveillance by security cameras that are ubiquitous in commercial or urban locations.

Traffic analysis is employed on local and long distance telephone records, including records of incoming as well as outgoing phone calls—both maintained by phone companies although the former do not appear on personal billing statements—and records are kept of incoming and outgoing calls, even of paging devices, public phone booths, prepaid cell phones, and other wireless devices, as well as emails indefinitely maintained by internet service providers. The records can then be subjected to traffic analysis to develop association trees identifying the subscriber who placed or received the calls, even years after the event, and with subscriber names being checked for criminal history or suspected activity against large investigative databases. Thus national and international criminal conspiracies may be identified and characterized by determining who called whom and when, with the data analyzed in support of continuing investigation and eventually submitted as evidence in

criminal prosecutions. Of course, the use of wiretaps and eavesdropping devices to record private conversation, or court- ordered surreptitious video cameras— even in the home if required —are well-known, as may be covert or anticipatory warrants whereby—lacking evidence of a crime—police are permitted to covertly search businesses or residences looking for evidence of crime, but without thereafter notifying the subject or owner. The use of "trash pulls" is frequent, whereby unwitting residents' garbage is searched and returned after filtering out phone bills, credit card receipts, handwritten numbers, names and addresses, or indicators of use. An expansion of this practice in the U.S. is now well-established in wide geographic areas of problematic activity called HIDTA regions or High- Intensity Trafficking Areas, such as the border states or air- entry points for trafficking, or the Midwest's ongoing rural methamphetamine epidemic. In HIDTA regions, now including most large metropolitan areas,

the program known as "Pocket-Trash" is in effect, whereby local seizures or routine traffic stops involving one pound or more of heroin, , methamphetamine—or 500 doses of — are subject to careful scrutiny of scrap paper with phone numbers, names, addresses, rental and storage receipts, and cell phone or pager incoming and outgoing contact histories, and other records. All records are then forwarded to DEA for uploading into their database called NADDIS, the Narcotic and Dangerous Information system, and the records and associated reports are then available online to any DEA investigator. As the media rely upon for many crime dramas, confidential informants are historically— and remain—the primary source of almost all arrests. These are usually individuals who have been arrested or merely threatened with arrest, who then in exchange for reduced charges or sentences or non-prosecution agreements provide substantial assistance to the government in the prosecution of others.

Informants are subjected to numerous interviews, appear before grand juries, and act as witnesses at trials. Under the mandatory Attorney Generals' Guidelines of 2001–2002, "cooperating witnesses may also be considered informants, but not individuals classified as "sources of information" or SOIs — those not associated with criminal activity, but who provide information as a result of their employment or occupation. E.g., bank tellers and hotel clerks. Other individuals extant to these classifications include those with routine contact with federal agencies for research purposes, including forensic scientists, criminologists, public health and medical researchers, public and private funding organizations, and policy analysts. Actual confidential informants customarily conduct “controlled calls” in an effort to implicate third parties, whereafter the recording may be used as evidence in court, or they may meet with third parties while wearing small concealed digital

devices to record buys or conspiratorial conversations. The primary factor in the arrest of most individuals and the dismantling of trafficking organizations remains the pervasive and increasing use of informants and cooperating witnesses. While informants may be necessary in some instances to penetrate and compromise large, violent and criminogenic international heroin and cartels, civil libertarians have expressed concerns that the ultimate social costs from such intrusive methods may outweigh the benefits, and that the need for this extreme of intrusion in nonviolent crime — balanced against the attrition of our personal liberties and privacy interests —is less clear. But how are surveillance reports, toll record analyses, witness interviews, use of informants, and other information integrated into a coherent investigative database that can be employed to compromise criminal organizations or reduce general availability through incapacitation effects? With regard to DEA, the answer is its

NADDIS database and, indeed, public knowledge of NADDIS arguably may in itself have a deterrent effect. Although NADDIS is the most widely used tool in law enforcement, and inquiry to NADDIS about an individual is commonly the first step in any investigation, public information on NADDIS is so infrequent that even the 7th Circuit Court of Appeals in the U.S., ultimately ruling on thousands of cases each year in which NADDIS was regularly employed, has stated, "It would be nice to know something about NADDIS." The author's review of the scanty secondary literature has revealed —other than limited mention in appellate decisions—certain characteristics of this database, however. Operated by DEA's Records Management Section, or SARI, possibly an acronym for "Software Agents for Retrieval of Information", NADDIS is now automated in part using the Defense Advanced Research Project Agency’s TIPSTER program for a text processing of reports of investigation from DEA

field offices, and has —since its inception in the 1970s— developed files on over eight million individuals, organizations, and other "subjects of interest" to DEA. A single file on an individual may contain names, addresses, phone numbers, reports of investigations over decades, personal histories, analysts' data, and other records, with over 40,000 new reports added to NADDIS each month in 2007 from the U.S. field offices and from the over 50 international DEA offices. A NADDIS inquiry on members of the Colombian congress indicated that more than one- quarter had NADDIS records. How is an individual's NADDIS file initiated? If a person's name is mentioned by an informant or a witness in an interview by DEA agents, it is entered into an index of names in a report of investigation, known as a "DEA-6"— to be prepared from witness or informant interviews, copies of which are sent to the 100 analysts working in two shifts at the DEA SARI section —where the analysts read the report and retype

abstracts of the most salient data, check the names against existing NADDIS files and either cross- reference the abstract against multiple individuals' files or open a new NADDIS file on a previously unknown individual, and with the abstracts finally entered in chronological order into the NADDIS summary or index, an abbreviated collection of abstracts that becomes a quick reference for an investigator on all that is known by DEA on an individual, an address, a business, or a phone number. The NADDIS index then becomes the practical means for locating the full reports for more detailed review, with the NADDIS index pointing to the complete reports and the agents that created them, permitting multiple investigations from different regions on the same person not to conflict, and to allow national and international investigations to be quickly established. With 40,000 reports being filed each month to the existing database of over 8,000,000 people, and DEA's implementation of automated procedures

evolving from the Department of Defense TIPSTER program for document processing, the increasing efficiency of this and other similar databases may also be one factor in greater incapacitation effects and the reduction of both crimes and all crimes in general since 1996. Yet, to civil libertarians, defense attorneys, and courts concerned with ethics in government, the NADDIS database provides a historical archive of the chronology of events and actions that may be of great value in monitoring the integrity of government investigations and organizations for possible impropriety. For example, not infrequently prosecutors and agents may be reluctant to disclose at trial events or criminal investigative histories of cooperating witnesses or informants that may be useful to the court, the jury, and defense counsel in weighing the credibility of informants or—for that matter—the agents themselves. In the U.S. the investigative history of a witness is required to be produced, and this would of

course include the witness' entire NADDIS index from its inception and all reports from which it is abstracted. Yet, the NADDIS index is almost never produced, even if specifically requested. While prosecutors and agents can select what reports they wish to provide the defense, the NADDIS index itself cannot be altered except by court order, and contains a permanent record of a witness' entire history. In the Kansas trial in 2003, for example, the informant was portrayed as having previously been an informant in "only one instance", in an earlier state case. By 2007, the defense determined that the individual had been a career informant —and a problematic one—for multiple agencies for decades, a matter now the subject of an ongoing appeal. Had the NADDIS record been produced, and it is still being withheld in that case, the problematic and extensive criminal and informant history of the witness would have been available to the court and jury at trial. In that suppression of

Constitutionally- mandated evidence is regularly encountered in prosecutions, the author—by way of civil and criminal litigation in California and Kansas, respectively—is now examining the structure of the NADDIS reporting system to clarify the Constitutional requirement for its production in criminal trials, and this matter is the topic of a forthcoming paper on NADDIS. However, any U.S. citizen may request a copy of his NADDIS record by submitting a Freedom of Information Act request to DEA, with many countries having a variation of this request for its citizens and databases. While the results are heavily censored, or redacted, and these redactions may be challenged by a civil procedure in federal court in a very lengthy process, the mere existence and extent of one's NADDIS file may prove of some personal interest. Clearly, advances in enforcement methods oppose the increase in availability of any controlled substance, including those with special

characteristics such as . What then may we predict for the future of use? Will it continue its stable, long-term trends, expand in availability, or diminish to an increasingly limited user cohort? We have considered the several influences that reduce supply, among them the incapacitation and deterrent effects of severe legal penalties and international control regimes, the application of precursor controls and the paradoxical outcomes of precursor controls such as these on methamphetamine supply and the increase in point sources therefrom, the advent and progression of specialized investigative methods, the automation of large investigative databases, the concerns of civil libertarians about such domestic intelligence gathering databases applied to lesser crimes, the limitations on manufacture due to saturation and isolation, the substitution effects of and other cinogens as characterized by DAWN, the overemphasis on arrests by enforcement agencies as the primary

factor in reducing availability, the general reduction in all availability and all and non-drug crime since 1996, and the deterrent effects of several factors on the user population. Balanced against and opposing these contracting factors are influences that tend to expand general availability, and with reference to the special properties of , we have also considered the existence of many small, portable, less easily detected labs as the aggregate basis of availability, the unlikelihood of any one lab contributing significantly to variances in U.S. or international survey data, the absence of any increase in availability due to the initiation of production by any single lab, the small dosage of as a factor increasing local supply from a single point source yet with such single sources inadequate to affect national survey data in similarity to and methamphetamine labs, the failure of precursor control programs with regard to due to the compactness of its precursor and the large number of legitimate end-users in

over 170 countries among which diversion may occur, the availability of apparatus and reagents on the internet and through industrial recyclers, the advances in simplified, high-yield bench methods of synthesis and the possible application of automated microreactors. Some factors remain upon which we have not elaborated, such as organizational bonding due to shared experiences described by users as "spiritual", the influence of such religiosity upon manufacture, distribution or use, and the initiation of new users as a type of "reverse substitution" from first- time participation in use. In this limited time we have discussed only a few of the many factors commonly recognized by criminologists and public health researchers, while introducing factors less frequently addressed. With so many confounding and conflicting influences, the future of availability is not easily predicted. Attempting predictions based on short- term, year-to-year survey results is futile. For example, enforcement officials

have asserted at different times, based on the 2003 DAWN results, a 74% drop in availability, a 95% drop, or describing availability as "wiped out". However, using such non-rigorous procedures and the DAWN database, a counterclaim of a 200% increase in availability from 2003-2006 may also be asserted, in either event requiring additional funding for federal agencies. A less biased approach would be to consider that all of the factors we have discussed have existed in one form or the other for the 40 years in which has been widely available. However, the survey data since 1976 shows only moderate variations within a narrow range relative to of greater abuse potential, and a somewhat greater variation in 2001 due to substitution effects of the unanticipated peak use of . In conclusion, what is the future of uncontrolled availability, excluding increases arising from public perception of any benefits reported by researchers in the medicalization effort? While observing that the contracting

factors we have discussed are not subject to rapid change, it is submitted that availability—absent a synthetic advance or positive substitution effect from an analog or a negative substitution effect from a new variant or other future —will continue in the moderate long-term trend range recorded over the last three decades, with slow increases and decreases over a period of years, and with about 10% of the population having experienced over a lifetime. Finally, any strongly significant change in availability will await the arrival of a new , whether a preferred short-duration variant or another - entheogen-entactogen or—it may be ventured —the substitution effect of an entirely different class of compounds, e.g. structures under development that affect libido, such as a safer version of bremelanotide or other melanocortin agonist, or new for the enhancement of learning and memory, such as experimental compounds in the ampakine series, for example, CX-717. Barring these

unusual developments, itself may well never be subject to strong substitution effects, given its special properties and characteristics, may be expected to retain its place in the pharmacopoeia as both a historical and a future .

In closing, the author wishes to acknowledge Drs. John Beresford, Lester Grinspoon and Sasha Shulgin, as well as Ann Shulgin, for their encouragement and support. The unfailing effort of Dr. Tim Scully is appreciated for historical and production data, and researchers will find his ongoing scholarly history of laboratories a valuable resource. My thanks also to the presenter for his quick mastery of arcane terms, to graduate students Ben Denio and Michael Golden, to attorney Billy Rork, to my family and children in their faith and hope, and to the unnamed researchers and friends whose courage and kindness in these difficult years remains forever in my memory. In that this presentation is a working paper and subject to continuing revision in web format, any questions,

suggestions and contributions of information are strongly encouraged, and the author may be contacted at the website www.freeleonardpickard.org or at aphrodine.1@gmail.com. Survey information in countries other than the U.S. is requested, as are any details on the topics discussed today. And to the audience, particularly those who remained undeterred throughout this presentation, thank you for listening. See pdf of decision here. FOR PUBLICATION UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT WILLIAM LEONARD PICKARD, Plaintiff-Appellant, v. DEPARTMENT OF JUSTICE, Defendant- Appellee. No. 08-15504 D.C. No. 06-CV-00185-CRB OPINION Appeal from the United States District Court for the Northern District of California Charles R. Breyer, District Judge, Presiding Argued and Submitted January 13, 2011—San Francisco, California Filed July 27, 2011 Before: J. Clifford Wallace, Barry G. Silverman, and Richard C. Tallman, Circuit

Judges. Opinion by Judge Silverman; Concurrence by Judge Wallace COUNSEL Kim Zeldin (argued), Liner Grode Stein Yankelevitz Sunshine Regenstreif & Taylor LLP, Sacramento, California, for the appellant. Neill Tseng (argued), Assistant United States Attorney, Melinda Haag United States Attorney, Joann M. Swanson, Chief, Civil Division, United States Attorney's Office, San Francisco, California, for the appellee. OPINION SILVERMAN, Circuit Judge: William Leonard Pickard, an inmate at the Federal Correctional Institution in Victorville, California, seeks enforcement of his Freedom of Information Act request to the Enforcement Administration for records pertaining to confidential informant Gordon Todd Skinner. In response to Pickard's FOIA request, the DEA submitted a Glomar response refusing to confirm or deny the existence of any responsive records pertaining to Skinner, citing exemptions 6 and 7(C), (D) and (F) of the Act. Pickard argues that the

government is prohibited from submitting a Glomar response because Skinner has already been "officially confirmed" as a confidential informant in conformity with 5 U.S.C. § 552(c)(2), and that the government now should move on to the next step and produce a Vaughn index. We hold today that because the government officially confirmed Skinner's status as an informant in open court in the course of official proceedings, the government cannot continue to "neither admit nor deny" Skinner's informant status in response to a FOIA request. This is not to say that all documents related to Skinner are subject to disclosure. We simply hold that since Skinner has already been officially identified as an informant by government counsel and agents, the cat is out of the bag and the government must proceed to the next step — provide an index of the documents it has and make whatever additional objections to disclosure it deems appropriate. PROCEDURAL BACKGROUND On January 25, 2005, Pickard

submitted a request to the DEA, an agency that is part of the United States Department of Justice, for "information and documents pertaining to DEA informant Skinner." Pickard specifically sought any information on Skinner's criminal history (including records of arrests, convictions, warrants, or other pending cases), records of all case names, numbers, and judicial districts where he testified under oath, records of all monies paid in his capacity as a federal government informant, all records of instances where the DEA intervened on his behalf to assist him in avoiding criminal prosecution, all records of administrative sanctions imposed for dishonesty, false claims, or other deceit, all records of any benefits of any nature conferred, all records of deactivation as a confidential informant and the reasons for deactivation, and all records concerning Skinner's participation in criminal investigations. On February 11, 2005, the DEA denied Pickard's request. Citing FOIA

Exemptions 6 and 7(C), and without confirming or denying the existence of any records relating to Skinner, the DEA advised Pickard that he would have to provide either proof of death or a privacy waiver from Skinner before any information would be released. Pickard appealed to the Office of Information and Privacy. The OIP upheld the DEA's response, and Pickard filed a complaint in the district court to enforce his FOIA request. After the district court reviewed the complaint and ordered it served, the DEA moved for summary judgment arguing that the Privacy Act, 5 U.S.C. § 552a, subsections (j)(2) and (k)(2), and FOIA exemptions 6 and 7(C), (D) and (F), applied to Pickard's request. The district court denied the motion without prejudice, noting that the DEA had not adequately justified its response to the request. The DEA again moved for summary judgment, this time fully briefing why a Glomar response,1 the practice of refusing to confirm or deny the existence of records pertaining to a

named individual, was appropriate to Pickard's request and attaching a declaration in support of its response. Pickard filed an opposition in which he cited to another district court decision on a motion in limine by the government. In that motion, the government sought to prevent Pickard from submitting certain evidence at trial to impeach Skinner. In its ruling, the district court stated that "[t]he government provided the court with Skinner's DEA informant file and suggested that the court conduct an in camera review to determine if there were any other occasions where Skinner had served as an informant." United States v. Pickard, 278 F. Supp. 2d 1217, 1244 (D. Kan. 2003). Pickard's opposition also included a declaration of his own, attesting that at his criminal trial DEA agent Karl Nichols testified that Skinner acted as an informant in Pickard's case. Pickard's declaration also notes that DEA agent Ralph Sorrell also testified at the trial about Skinner's identity and activities as an informant. Pickard

also cites to decisions from the Tenth Circuit and from the district court in his criminal case from which it can be deduced that the government called Skinner as a witness at Pickard's trial and elicited testimony from Skinner and DEA agents in which they each specifically acknowledged that Skinner had acted as a confidential informant. See, e.g., United States v. Aperson, 441 F.3d 1162, 1200 (10th Cir. 2006) (referring to testimony provided by Skinner, "the government's primary confidential informant"); United States v. Pickard, 278 F. Supp. 2d 1217, 1244 (D. Kan. 2003); United States v. Pickard, 211 F. Supp. 2d 1287, 1293-96 (D. Kan. 2002) (addressing government's motion in limine regarding evidence offered to impeach Skinner). The government contests the admissibility of certain evidence offered by Pickard, but does not otherwise dispute that Department of Justice attorneys at Pickard's criminal trial elicited testimony in open court from Skinner and DEA

agents that identified Skinner as a confidential informant. The district court granted summary judgment in favor of the government, holding that Skinner's identity as a confidential informant had not been "officially confirmed" within the meaning of 5 U.S.C. § 552(c)(2), and that a Glomar response was appropriate under exemptions 7(C) and 7(D). STANDARD OF REVIEW Where the parties do not dispute the district court had an adequate factual basis for its decision and the decision turns on the district court's interpretation of the law, we review the district court's decision de novo. Schiffer v. FBI, 78 F.3d 1405, 1409 (9th Cir. 1996). DISCUSSION [1] The Freedom of Information Act "calls for broad disclosure of Government records." CIA v. Sims, 471 U.S. 159, 166 (1985). "However, Congress has recognized that public disclosure is not always in the public interest, and has therefore provided the nine exemptions listed in 5 U.S.C. § 552(b)." ACLU v. U.S. Dep't of Defense, 628 F.3d 612, 618

(D.C. Cir. 2011) (internal citation and quotation marks omitted). "Given the FOIA's broad disclosure policy, the United States Supreme Court has 'consistently stated that FOIA exemptions are to be narrowly construed.' " Wolf v. CIA, 473 F.3d 370, 374 (D.C. Cir. 2007) (quoting U.S. Dep't of Justice v. Julian, 486 U.S. 1, 8 (1988)). The DEA may, however, provide a Glomar response, "refus[ing] to confirm or deny the existence of records where to answer the FOIA inquiry would cause harm cognizable under a FOIA exception." Wolf, 473 F.3d at 374 (internal quotation marks omitted). [2] Pickard argues that the DEA's Glomar response is improper is this case because the Department of Justice has "officially confirmed" Skinner's status as a confidential informant within the meaning of 5 U.S.C. § 552(c)(2) by calling him as a witness in Pickard's criminal trial and eliciting testimony from Skinner and from DEA agents that identifies Skinner as an confidential informant.

Subsection (c)(2) states: Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed. 5 U.S.C. § 552(c)(2). "Where an informant's status has been officially confirmed, a Glomar response is unavailable, and the agency must acknowledge the existence of any responsive records it holds." Boyd v. Criminal Div. of U.S. Dep't of Justice, 475 F.3d 381, 389 (D.C. Cir. 2007). The district court held that the DEA's Glomar response was valid because Skinner's identity as a confidential informant had not been "officially confirmed" under subsection (c)(2). To determine whether Skinner's identity had been "officially confirmed," the district court applied the standard for the "official

acknowledgment" of information. See Afshar v. U.S. Dep't of State, 702 F.2d 1125, 1133 (D.C. Cir. 1983). A fact is deemed "officially acknowledged" only if it meets three criteria: First, the information requested must be as specific as the information previously released. Second, the information requested must match the information previously disclosed; we noted, for example, that official disclosure did not waive the protection to be accorded information that pertained to a later time period. Third, we held that the information requested must already have been made public through an official and documented disclosure. Fitzgibbon v. CIA, 911 F.2d 755, 765 (D.C. Cir. 1990). Courts have not made any meaningful distinction between "official confirmation" and "official acknowledgment" in the FOIA context. See, e.g., Wolf, 473 F.3d at 376-77; Phillipi v. CIA, 655 F.2d 1325, 1332-33 (D.C. Cir. 1981); Earth Pledge Found. v. CIA, 988 F. Supp. 623, 628 (S.D.N.Y. 1996). Moreover, when information

has been either "officially acknowledged" or "officially confirmed," an agency is not precluded from withholding information pursuant to an otherwise valid exemption claim; however, a Glomar response is no longer appropriate, and the agency must confirm or deny the existence of the requested information. See Wolf, 473 F.3d at 379 (holding that an "official acknowledgment waiver relates only to the existence or nonexistence of the records," and remanding "to the district court where the CIA must either disclose any officially acknowledged records or establish both that their contents are exempt from disclosure and that such exemption has not also been waived"); Benavides v. DEA, 968 F.2d 1243, 1248 (D.C. Cir. 1992) ("The legislative history suggests, in fact, that Congress intended to permit the DEA to withhold documents under 7(C) and 7(D), even if the agency must, under subsection (c)(2) acknowledge their existence.") (citing 132 Cong. Rec. S14295, at H9467 (daily ed. Oct. 8,

1986) (statement of Reps. English and Kindness)). The district court held that "the DEA has set forth evidence showing that there is no official acknowledgment of Skinner as an informant." Citing the declaration proffered by the DEA, the district court noted that "[a] search of the web, as well as of the DEA headquarters and San Francisco division offices was conducted and found no official public pronouncement regarding the status of Skinner as a confidential source." The district court further held that Pickard "has not satisfied his burden of producing specific information in the public domain showing that the DEA has officially acknowledge Skinner as an informant." It is unclear whether or how the district court addressed evidence that the government had deliberately elicited testimony in Pickard's criminal trial regarding Skinner's status as an informant; however, given this evidence, we find the district court's application of the third criterion of the Afshar standard —

whether Skinner's identity has already "been made public through an official and documented disclosure" — too narrow in the context of subsection (c)(2). [3] "A fundamental canon of statutory construction is that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning." Perrin v. United States, 444 U.S. 37, 42 (1979). "When a natural reading of the statute[] leads to a rational, common-sense result, an alteration of meaning is not only unnecessary, but also extrajudicial." Ariz. St. Bd. for Charter Schools v. U.S. Dep't of Educ., 464 F.3d 1003, 1008 (9th Cir. 2006). An "official confirmation" does not derive from merely any agency employee, but must be authorized by "a person who is invested with a portion of the sovereignty of the [federal government], and who is authorized to exercise governmental functions either of the executive, legislative, or judicial branch of the government." See Chapman v. Gerard, 341 F. Supp. 1170, 1173-74 (D.V.I. 1970), aff'd, 456

F.2d 577, 578 (3d Cir. 1972). On the other hand, nothing in the statute or legislative history suggests that in the context of the interests protected by the (c)(2) exclusion, "official confirmation" requires that the government issue a press release publishing the identity of a confidential informant or that the director of a federal law enforcement agency personally identify the informant. Given these definitions, the plain language of the term "official confirmation" in the context of 5 U.S.C. § 552(c) (2) leads to such a "rational common-sense result" when read to mean an intentional, public disclosure made by or at the request of a government officer acting in an authorized capacity by the agency in control of the information at issue. [4] Here, the undisputed evidence demonstrates just such a disclosure. The case against Pickard was investigated by the DEA and brought to the United States Attorney, who prosecuted the case based on evidence and testimony gathered by DEA

agents. At Pickard's criminal trial, the government, as part of its case- in-chief, intentionally elicited testimony from Skinner and several DEA agents as to Skinner's activities as a confidential informant in open court in the course of official and documented public proceedings. The revelation of Skinner's identity as an informant was not the product of an unofficial leak, nor was it improperly disclosed in an unofficial setting by careless agents. [5] The government basically argues that federal law enforcement agencies should be able to develop a case for the United States Attorney, have their agents and confidential informants testify at trial in open court about the identity and activities of those confidential informants, but then refuse to confirm or deny the existence of records pertaining to that confidential informant. We cannot abide such an inconsistent and anomalous result. See Ariz. St. Bd. for Charter Schools, 464 F.3d at 1008 ("[C]ourts avoid natural readings that would lead to

irrational results.") (internal citation omitted). Thus, a Glomar response is no longer available to the government with respect to Skinner's status as a confidential informant in Pickard's case. [6] This is not to say that the DEA is now required to disclose any of the particular information requested by Pickard. We must maintain equipoise between the public's interest in knowing "what [its] government is up to" and the "legitimate governmental and private interests" in withholding documents subject to otherwise valid FOIA exemptions. Boyd, 475 F.3d at 385; cf. Rebecca Aviel, Restoring Equipoise to Child Welfare, 62 Hastings L.J. 401, 413-14 (2010). Thus we hold only that the government must take the next step. Having previously officially confirmed Skinner's status as an informant, it may no longer refuse to confirm or deny that fact. It must now produce a Vaughn index in response to Pickard's FOIA request,2 raise whatever other exemptions may be appropriate, and let the district court

determine whether the contents, as distinguished from the existence, of the officially confirmed records may be protected from disclosure under the DEA's claimed exemptions. See Wolf, 473 F.3d at 380; see also Benavides, 968 F.2d at 1248. CONCLUSION For the foregoing reasons, we REVERSE the district court's grant of summary judgment and REMAND to the district court for proceedings consistent with this opinion. REVERSED and REMANDED. WALLACE, Senior Circuit Judge, concurring: In resolving this case, we must apply 5 U.S.C. § 552(c)(2) to the facts at issue. That section provides: Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed. Id. (emphasis added).

In other words, once a confidential informant's status has been "officially confirmed," the Enforcement Agency (DEA) cannot merely provide a Glomar response—that is, refuse to acknowledge or deny the existence of the requested records. Boyd v. Criminal Div. of U.S. Dep't of Justice, 475 F.3d 381, 389 (D.C. Cir. 2007). The specific circumstances pursuant to which an informant's status is deemed "officially confirmed" is a matter of first impression and great importance. Yet, in resolving this issue, both the prior case law and the legislative history of section 552(c)(2) are of little assistance. It also does not help that the Department of Justice (DOJ) has not promulgated any rule or regulation interpreting this provision. Additionally, while it is true that the plain meaning of statutes govern their interpretation, this principle is not of much assistance here: "official" means "authoritative" or "authorized," Webster's Third New Int'l Dictionary 1567 (3d ed. 1986), but this

definition begs the question of who is authorized to make a confirmation official. The DOJ and Pickard unsurprisingly present opposing views of what it means for a government agent to confirm officially an informant's status. Borrowing language from the rule for "official acknowledgments," the DOJ insists that an official confirmation requires that "the information requested must already have been made public through an official and documented disclosure." Fitzgibbon v. C.I.A., 911 F.2d 755, 765 (D.C. Cir. 1990) (emphasis added). Thus, the DOJ avers that a Glomar response was appropriate in this case because that agency has not issued an official press release disclosing Skinner's status. There is, however, no logical reason for importing the "official acknowledgment" test into the context of section 552(c)(2). As other courts have explained, "official acknowledgment" and official confirmation do not implicate the same concerns. The standard for "official

acknowledgment," for instance, was established to protect the government from officially releasing its sensitive information. See id. (explaining that the "official acknowledgment" criteria are significant because they recognize "that in the arena of intelligence and foreign relations there can be a critical difference between official and unofficial disclosures"). In contrast, the purpose of section 552(c)(2) is to protect a confidential informant's privacy and safety. See North v. U.S. Dep't of Justice, 658 F. Supp. 2d 163, 171 (D.D.C. 2009) ("[E]ven acknowledging the existence of responsive records constitutes an unwarranted invasion of the targeted individual's personal privacy"). As a practical matter, there are several reasons why a government agency would not want to acknowledge officially a fact that is widely reported. But in the section 552(c)(2) context, once a confidential informant's status has been revealed — whether through a documented press release or otherwise — the secrecy of his

status is of little value to the government and he does not necessarily enjoy the same level of privacy and safety. What further troubles me about the DOJ's position—that a press release is the only way to confirm officially a confidential informant—is that, to the DOJ's knowledge, no confidential informant has ever been officially confirmed in this manner. It is difficult to believe that Congress intended section 552(c) to be effectively inoperative. See Corley v. United States, 129 S. Ct. 1558, 1566 (2009) ("[O]ne of the most basic interpretive canons [is] that [a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant" (internal quotation marks omitted)). Pickard's position, in contrast to the DOJ's approach, is that when the Government presents testimony and exhibits in open court regarding a confidential informant's status, these disclosures constitute official confirmation. In my view, this interpretation of

section 522(c)(2) makes more sense. The Supreme Court has held, albeit in a different context, that "[t]he prosecutor's office is an entity and as such it is the spokesman for the Government." Giglio v. United States, 405 U.S. 150, 154 (1972). Accordingly, in the absence of a different DOJ rule, I believe that so long as the prosecution, as an agent of the Government, has solicited testimony in open court that a witness is a confidential informant, this is sufficient to confirm officially his or her status. I therefore concur with the majority. I do, however, have one fairly significant concern: interpreting section 552(c) (2) in this manner may create difficulties for both federal prosecutors and confidential informants. On the one hand, prosecutors frequently must rely on informants, who possess vital information, to prosecute dangerous criminals. On the other hand, the DEA and confidential informants have a different interest in secrecy and privacy than federal prosecutors. Yet, under the majority

holding, an Assistant United States Attorney can eliminate that privacy interest by asking a single question—i.e., "Did you serve as a confidential informant"—in open court. Given these difficulties, my view of this case may have been different if the DOJ had issued regulations interpreting section 552(c). Under Chevron U.S.A., Inc. v. National Resource Defense Counsel and its progeny, we afford substantial deference to reasonable administrative interpretations of federal statutes promulgated by notice and comment, or otherwise appropriate rulemaking. 467 U.S. 837, 843 (1984). But by failing to issue such regulations, we are required to afford the DOJ's interpretation of section 552(c) the same amount of deference we give Pickard's or any other litigant's. See Alaska v. Fed. Subsistence Bd., 544 F.3d 1089, 1095 (9th Cir. 2008) ("We do not afford Chevron or [even] Skidmore deference to litigation positions unmoored from any official agency interpretation because

Congress has delegated to the administrative official and not to appellate counsel the responsibility for elaborating and enforcing statutory commands" (internal quotation marks omitted)). Of course, as the majority correctly points out, its decision does not necessarily require the DEA to disclose all of the specific information and documents requested by Pickard. "Congress established FOIA" to strike a balance between the public's interest in knowing "what [its] government is up to" and the "legitimate governmental or private interests" in withholding documents subject to FOIA's exemptions. Boyd, 475 F.3d at 385 (internal quotation marks omitted). Accordingly, at this point, we are merely requiring the DEA to take the next step—that is, to produce a Vaughn index. See Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973) (ordering government to provide an itemized index of the particular FOIA exemptions claimed for each requested document). 1. "The term arose in a case in

which the CIA refused to confirm or deny CIA connection to a ship named the Hughes Glomar Explorer." Minier v. CIA, 88 F.3d 796, 800 n.4 (9th Cir. 1996) (citing Phillippi v. CIA, 546 F.2d 1009, 1011 (D.C. Cir. 1976)). 2. A Vaughn index is a comprehensive listing of each withheld document cross- referenced with the FOIA exemption that the government asserts is applicable." Solar Sources, Inc. v. United States, 142 F.3d 1033, 1037 n.3 (7th Cir. 1998). ShareThis Copy and Paste - See more at: http://freeleonardpickard.org/ninth-circuit-decision.html#sthash.cULKKO4L.dpuf (Excerpted from and annotated from OCR version. See pdf of article here.) Prisoner Can Use FOIA to Find Out About Snitch By John Roemer Daily Journal Staff Writer A Mill Valley Man [] who is serving life without parole in federal prison for producing by the kilo, can force the government to release information on the informant who testified against him, a 9th Circuit Court of Appeals panel held Wednesday.

The decision for the first time spelled out how a confidental informant's status is deemed "officially confirmed" for Freedom of Information Act disclosure purposes. Pickard v. U.S. Department of Justice, 2011DJDAR1176. "The court confirmed that the goal of FOIA is to make as much information about how the government operates as public as possible," said Jennifer Lynch, a staff attorney as the Electronic Frontier Foundation, a free speech advocacy group that monitored the case. The panel voted 3-0 to reverse U.S. District Judge Charles R. Breyer of San Francisco. It ordered the government to take the next FOIA procedural step: production of an index of the responsive material it possesses, along with any arguments it cares to make about why specific items may be exempt from FOIA disclosure. [] From behind bars, (William Leonard Pickard) has since sought to to learn from the government the criminal history of his former associate Gordon Todd Skinner, who testified for the prosecution

at his trial, and to find out whatever inducements Skinner received. Enforcement Administration agents stonewalled, submitted a so-called Glomar response in which they refused to confirm or deny Skinner's informant status. The term arose when federal courts OK'd the CIA's refusal to acknowledge its connection to a spy ship named the Hughes Glomar Explorer. Phillipi v. CIA, 546 F.2d 1009 (D.C. Circuit 1976). Pickard sued and Breyer granted summary judgment to the government, holding Skinner's identify as a confidential informant had not been "officially confirmed" within the meaning of the FOIA statute. On the contrary, wrote Judge Barry G. Silverman for colleagues J. Clifford Wallace and Richard C. Tallman. At Pickard's crimnal trial, prosecutors elicited testimony from Skinner and from DEA agents regarding Skinner's acts as a confidential informant. That made it official, the panel held. "The revelation of Skinner's identity as an informant was not the product of an unofficial

leak, nor was it improperly disclosed in an unofficial setting by careless agents," Silverman wrote. The government's argument that it should be able to withhold on Glomar grounds information about an agent after he has been unmasked in open court cannot prevail, he added. "We cannot abide such an inconsistent and anomalous result." Kim S. Zeldin, a Liner Grode Stein Yakelevitz Sunshine Regenstreif & Taylor litigation partner who represented Pickard on his appeal, said her client hoped his FOIA request could help his case. "He wanted information to show he had been set up by an informant who was not to be believed, with a view to a further appeal," Zeldin said. She pointed out that Skinner is also serving a life term for kidnaping and assault with a dangerous weapon. She blasted sentencing laws that gave Pickard a similar sentence for manufacturing . "The justice system doesn't seem fair in that regard," she said. A spokesman for U.S. Atorney Melnda L. Haag of the Northern District, whose

office defended Pickard's appeal, declined to comment. ShareThis Copy and Paste - See more at: http://freeleonardpickard.org/daily-journal-article.html#sthash.J6gJL51p.dpuf Ninth Circuit Decision Adopted in D.C. District Court Leonard's Ninth Circuit FOIA decision has spread to other circuits, opening the door for media and public interest groups to examine informant records. A D.C. district court has adopted the 9th Circuit decision in Pickard v. DOJ in a case involving FBI practices in the civil rights era. See Google Alert version, discussing Leonard's FOIA request for Skinner's records, below: (see http://www.commercialappeal.com/news/2012/ mar/12/ruli ng- could-clear-path- to-withers-file/) Ruling could clear path to Withers' file FBI fights 'breakthrough' decision to release info By Marc Perrusquia Memphis Commercial Appeal Posted March 12, 2012 at midnight Ernest Withers lived life on the edge, skirmishing in the front lines of civil rights

battles, serving a stint in prison, and shooting great photographic records of Negro League baseball and the gritty blues scene on Beale Street. Now, five years after the legendary Memphis photographer's death, a legal fight over FBI files that detail another facet -- his secret life as an informant reporting on the civil rights movement -- is generating its own story line. When U.S. Dist. Judge Amy Berman Jackson ruled Jan. 31 in favor of The Commercial Appeal, culminating a four-year legal fight, it marked what lawyers believe is just the second time a court agreed to open an informant's file under a process called official confirmation. The Department of Justice has asked Jackson to reconsider her ruling. And in a separate motion filed earlier this month, the FBI also asked for a 60-day stay for officials to evaluate a possible appeal. Jackson, a first-year trial judge in the U.S. District Court in Washington, D.C., hasn't ruled on either request, but she decided Friday to postpone a March 16

deadline for the FBI to produce a first round of records. To survive, her January ruling may have to overcome the great weight of law and tradition that protects the identity and dealings of informants. Despite similar historically significant court rulings, such as the unsealing last year of President Richard Nixon's grand jury testimony, transparency advocates say the newspaper may still face a contentious fight. "Unfortunately, we don't see (favorable court decisions) happening on a broad basis," said Allison M. Zieve, litigation director for Public Citizen, a Washington-based nonprofit that sued to open Nixon's secret testimony taken in 1975 during the height of the Watergate scandal. "If (judges) don't feel the government is just really over-reaching, they're inclined to pull for the government. They err on that side." Most of what's known about civil rights-era informants didn't come from Freedom of Information lawsuits, but from the period's political fallout. Details about James Harrison, the Southern

Christian Leadership conference accountant paid by the FBI to inform on Dr. Martin Luther King Jr., and Gary Thomas Rowe, an FBI informant who infiltrated the Ku Klux Klan and was in a car with activist Viola Liuzzo when she was murdered in 1965, dribbled out during 1970s congressional investigations of FBI abuses. "This is significant. This is unusual," historian David Garrow said of the Withers decision. "This is a breakthrough. But at least for the moment it's a limited breakthrough. It may have application to other historically important cases. But it may be a case-by-case fight." It was only last year that legal footing was gained to give rise to Jackson's decision on Withers. And it came from a very unlikely source. William Leonard Pickard, a federal inmate serving a life sentence for trafficking , had sued the Enforcement Administration hoping to learn more about the credibility of an informant who helped put him behind bars. A trial judge initially rejected Pickard's Freedom

of Information suit, but last July, the Ninth Circuit Court of Appeals in San Francisco reversed it. The appeals court determined that because DEA agents testified at Pickard's trial about the identity and activities of confidential informant Gordon Todd Skinner, the government had "officially confirmed" Skinner as an informant and his file was subject to the Freedom of Information Act. Similarly in the Withers case, the FBI cites a 1986 statute that says information about an informant isn't releasable under FOIA unless the government first "officially confirms" an individual as an informant. The FBI says it hasn't done that. It still refuses to confirm or deny Withers was an informant, despite a large amount of published information, including the handwritten notes of his FBI handler, the late agent William H. Lawrence, saved by the agent's daughter and given to the newspaper. The FBI argues that releasing information on any informant, even deceased, would have a chilling effect on its

ability to recruit new informants. But Judge Jackson determined the FBI officially confirmed Withers when it released a 1977 report identifying him by his informant code number, ME 338-R. The FBI released the report twice, first in 2009 in answer to a FOIA request by the newspaper and again last year, this time with additional details. The Ninth Circuit opined that official confirmation doesn't require a press release or "that the director of a federal law enforcement agency personally identify the informant." Because the statute didn't define official confirmation, it must be interpreted by its "plain language" in a way that leads to a "rational common-sense result." The newspaper's attorneys believe the Pickard and Withers cases are the only instances in which a court has officially confirmed an informant. Even with that, under Jackson's ruling the newspaper would first get only an index of Withers' file. The FBI could still then redact swaths of information citing privacy and other

exemptions. Public Citizens' Zieve said court decisions vary widely and it helped in the Nixon case to have a judge who appreciated historical importance. In her Withers decision, Jackson cited language from an earlier case, saying the "undisputed historical interest in the requested records ... far outweigh the need to maintain the secrecy of the records." Because the case involves no ongoing criminal probe, Jackson said she's "confident that the ruling will not have the chilling effect feared by the FBI." ShareThis Copy and Paste - See more at: http://freeleonardpickard.org/ninth-circuit-decision- DC.html#sthash.xjIAZgnw.dpufLogin | Manage Account | Mobile | Contact | E-Appeal | Archives | Reader Rewards | Subscribe Web Search powered by Yahoo! SEARCH Memphis Commercial Appeal News Today Local State Nation World Weather Obituaries Politics Education Columnists Data Topics Projects Blogs Sports Business Opinion Entertainment Lifestyle Media Jobs Homes Cars Classified

Ruling could clear path to Withers' file FBI fights 'breakthrough' decision to release info By Marc Perrusquia Posted March 12, 2012 at midnight Discuss Print A A A Ernest Withers: Exposed Ernest Withers Ernest Withers lived life on the edge, skirmishing in the front lines of civil rights battles, serving a stint in prison, and shooting great photographic records of Negro League baseball and the gritty blues scene on Beale Street. Now, five years after the legendary Memphis photographer's death, a legal fight over FBI files that detail another facet -- his secret life as an informant reporting on the civil rights movement -- is generating its own story line. When U.S. Dist. Judge Amy Berman Jackson ruled Jan. 31 in favor of The Commercial Appeal, culminating a four-year legal fight, it marked what lawyers believe is just the second time a court agreed to open an informant's file under a process called official confirmation. The Department of Justice has asked Jackson to reconsider her ruling. And in a

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over- reaching, they're inclined to pull for the government. They err on that side." Most of what's known about civil rights- era informants didn't come from Freedom of Information lawsuits, but from the period's political fallout. Details about James Harrison, the Southern Christian Leadership conference accountant paid by the FBI to inform on Dr. Martin Luther King Jr., and Gary Thomas Rowe, an FBI informant who infiltrated the Ku Klux Klan and was in a car with activist Viola Liuzzo when she was murdered in 1965, dribbled out during 1970s congressional investigations of FBI abuses. "This is significant. This is unusual," historian David Garrow said of the Withers decision. "This is a breakthrough. But at least for the moment it's a limited breakthrough. It may have application to other historically important cases. But it may be a case-by-case fight." It was only last year that legal footing was gained to give rise to Jackson's decision on Withers. And it came from a very unlikely

source. William Leonard Pickard, a federal inmate serving a life sentence for trafficking , had sued the Enforcement Administration hoping to learn more about the credibility of an informant who helped put him behind bars. A trial judge initially rejected Pickard's Freedom of Information suit, but last July, the Ninth Circuit Court of Appeals in San Francisco reversed it. The appeals court determined that because DEA agents testified at Pickard's trial about the identity and activities of confidential informant Gordon Todd Skinner, the government had "officially confirmed" Skinner as an informant and his file was subject to the Freedom of Information Act. Similarly in the Withers case, the FBI cites a 1986 statute that says information about an informant isn't releasable under FOIA unless the government first "officially confirms" an individual as an informant. The FBI says it hasn't done that. It still refuses to confirm or deny Withers was an informant, despite a large amount of published

information, including the handwritten notes of his FBI handler, the late agent William H. Lawrence, saved by the agent's daughter and given to the newspaper. The FBI argues that releasing information on any informant, even deceased, would have a chilling effect on its ability to recruit new informants. But Judge Jackson determined the FBI officially confirmed Withers when it released a 1977 report identifying him by his informant code number, ME 338-R. The FBI released the report twice, first in 2009 in answer to a FOIA request by the newspaper and again last year, this time with additional details. The Ninth Circuit opined that official confirmation doesn't require a press release or "that the director of a federal law enforcement agency personally identify the informant." Because the statute didn't define official confirmation, it must be interpreted by its "plain language" in a way that leads to a "rational common-sense result." The newspaper's attorneys believe the Pickard and

Withers cases are the only instances in which a court has officially confirmed an informant. Even with that, under Jackson's ruling the newspaper would first get only an index of Withers' file. The FBI could still then redact swaths of information citing privacy and other exemptions. Public Citizens' Zieve said court decisions vary widely and it helped in the Nixon case to have a judge who appreciated historical importance. In her Withers decision, Jackson cited language from an earlier case, saying the "undisputed historical interest in the requested records ... far outweigh the need to maintain the secrecy of the records." Because the case involves no ongoing criminal probe, Jackson said she's "confident that the ruling will not have the chilling effect feared by the FBI." -- Marc Perrusquia: (901) 529- 2545 Discuss Print Related Stories Judge rules she won't

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to contact the defense:Attorney: Billy Rork, 1321 SW Topeka Blvd. Topeka, KS 66612 Tel: 785. 235. 1650 www.rorklaw.com "Nine-tenths of tactics may be learned in schools, but the irrational tenth is like the kingfisher flashing across the pond, and in it lay the test of generals" TE Lawrence, (1928) Legal Advisor: Bill Osterhoudt 135 Belvedere Street San Francisco, CA 94117 Tel: 415. 664. 4600 Recommended defense attorney in Bay Area: Michael Anderson, PhD, JD How are the appeals going? There is pending litigation in the Tenth Circuit, and the district courts of Kansas, Northern California and Arizona. See "Current Actions in the Courts". What does he do during incarceration? He conducts legal research for district court and appellate proceedings. He is a researcher and active FOIA litigator now investigating law enforcement records systems (see FOIA litigation and pending requests). Through a series of FOIA requests and lawsuits now in federal courts (see Current Actions in the

Courts), Leonard is seeking both case-related information and details on the structure and function of government data systems. Toward that end, he is researching databases maintained by DEA, DOJ, DHS, EOUSA, FBI, IRS, ONDCP and other government agencies that maintain files on the public (see, e.g. his NADDIS paper concerning DEA's NADDIS system containing over 8 million files on individuals that are subjects of interest as well as non-criminal subjects including artists, attorneys, politicians, and celebrities). Recently, he has obtained through FOIA the first public release of: a) a DEA NADDIS record (see record) b) an FBI Universal Index (UNI) record (see record) c) the first official acknowledgment of an informant (Skinner) and the first public release of an informant's records (see Pickard v. DOJ)(Pickard I). What is his schedule in prison? He arises at 5:30 AM, and runs on a track at dawn. At 8 AM he begins legal research. In the late afternoons, he composes documents for

various projects and attends to correspondence. In the evenings he edits full-length book manuscripts and other documents (see free copying editing and proofreading). He has a meditation and yoga practice within this very structured day, even within the noise, crowding and periodic violence of maximum security prison environments. What are his hobbies and recreation? In his very limited free time, a transistor radio is permitted (the only personal electronics allowed) on which he listens to classical music (operatic arias, Beethoven, Chanticleer, plainsong (see favorites) and when available (rarely) also techno/bass-n-drum/trance (Crystal Method, Massive Attack, etc.). Although limited email is available, there is no internet access. He reads constantly (see recommended reading) with an emphasis on 18th-19th century literature, and modern non-fiction works on post-9/11 digital surveillance and datamining, internet evolution, policy, think tanks, science and medicine. How can we help?

And how can Leonard help me? a. He enjoys and responds promptly to written correspondence. Student/faculty volunteers are invited to participate in various projects involving net research and document preparation (contact us). Posting links to this site or using the Share applications may also be helpful (e.g. the home page, the NADDIS paper, the Basel paper, and the 9th Circuit decision). b. Leonard can help others by reviewing manuscripts, terms papers, proposals and other writings, by offering comments and suggestions, or by copyediting and proofreading. He does this without charge for college students (over 18, please), faculty and new authors. He also responds to all inquiries, and discusses topics of mutual interest and personal issues of correspondents. He provides commentary for media and journalists on incarceration and policy. Are there other ways to help? Aid has many forms. We are aware of the power of prayer and the positive outcomes of spiritual

practices. Your kind thoughts and compassionate feelings, directed toward resolution of this matter, will make a difference. Please think of us, and know that we think of you, in the most loving way. What will he do if he survives this difficulty? He will love his family as his primary occupation, while continuing to conduct research, including writing and speaking on issues in future policy. FAQS prior to 2004rorklaw.com "In all criminal prosecutions, the accused shall enjoy the right... to have the Assistance of Counsel for his defence." -U.S. Constitution, Sixth Amendment The Rork Law Office specializes in all types of criminal defense solutions for both trial and appellate cases. Our expertise includes defense for a broad range of crimes from violent offenses to simple traffic matters. The Rork Law Office is licensed in the U.S. Supreme Court, the Tenth Circuit Court of Appeals, the U.S. District Court for the Western District of Missouri, the U.S. District Court of Kansas, the

Kansas Court of Appeals and every district court and lower court in the state of Kansas. For more information about the Rork Law Office, select any of the buttons on the left or contact us by e-mail or telephone for a consultation. 1321 SW Topeka Blvd. Topeka, KS. 66612 Hours: 9am-4:30pm Monday- Friday Telephone: (785) 235-1650 Fax: (785) 235-2421 E-Mail: rork@rorklaw.com Search rorklaw.com Search WWW The information on this website is not intended to serve as legal advice. No attorney-client relationship can be implied or assumed through access to this webpage or its content. About Rork Law | Appellate Law | Criminal Defense | DUI/Drug Defense | Legal Links | News Stories | Page Top The following appeals and district court motions are pending: 9th Circuit: July 27, 2011: The 9th Circuit REVERSED AND REMANDED the district court denial of a FOIA complaint for Skinner's records. See 9th Circuit decision in Pickard v. DOJ, 653 F.3d 782 (9th Cir. July 27, 2011)

("Pickard I"). 10th Circuit: March 21, 2011: Motion to remand for fraud upon the court due to prosecutor's affirmative denial to the district court that no agency other than DEA participated in the investigation. This motion was filed after DOJ through FOIA revealed that the investigation was a multiagency OCDETF and HIDTA investigation (see DEA and DOJ FOIA requests). Oral argument set for January 20, 2012 after Government indicated it was "not prepared" to respond to the motion. June 18, 2012: The Tenth Circuit issued an opinion stating, "We cannot accept the proposition that the government has a free pass to deceive a habeas court into denying discovery just because it similarly deceived the trial court [] We doubt that the governing procedural rules permit the government to gain such an advantage by its own fraudulent conduct." The Tenth Circuit remanded the Kansas case to the district court with instructions to consider Defendants' claim that the "prosecutor's false

statement improperly prevented them from obtaining relevant discovery in the 2255 proceedings." 2012: Opening brief filed requesting that Gordon Todd Skinner's Confidential Informant File (CI File) containing the "risk assessment" (RA file) - sealed in district court at trial in 2003 - be unsealed and made available to the public due to a. the First Amendment and common law right to access to these records; b. Skinner's file already being provided to defense counsel; c. the issue of inauthenticity of the "risk assessment" (see Pickard v. DOJ in Arizona, "Pickard II" infra); d. the need to prevent spoliation or alteration of these exhibits by the government; and e. the 9th Circuit decision in Pickard v. DOJ, 653 F.3d 782 (9th Cir. July 27, 2011)("Pickard I") wherein it was decided that Skinner has no further privacy interests due to his official confirmation as an informant by DEA. May 7, 2013: Oral argument on this date before Tenth Circuit in Denver, over objection of the Government, regarding the

motion to unseal Gordon Todd Skinner's sealed "CI File" in district court, consisting of a.) a "Risk Assessment"; b.) two Quarterly Reports dated January 19, 2001 and March 31, 2001 respectively; and c.) a Deactivation Report dated June 27, 2001. District Court (Kansas): June 14, 2011: Notice of prosecutor's and agent's violation of F.R.Civ.P. Rule 11(b) regarding lack of evidentiary support for the authenticity of the "risk assessment" sealed by the district court at trial. No response by the Government. September 7, 2011: Second notice (revised) of prosecutor's and agent's violation of F.R.Civ.P. Rule 11(b) regarding lack of evidentiary support or the authenticity of the "risk assessment" sealed by the district court at trial. No response by the Government. 2012: Motion for evidentiary hearing was filed on the issue of fraud upon the district court concerning the prosecutor's deception that only DEA was involved in the investigation, whereas afterward DOJ and FBI through FOIA confirmed the

investigation was a multiagency OCDETF and HIDTA investigation (See June 18, 2012 remand on this issue by the Tenth Circuit, stating "We cannot accept the proposition that the government has a free pass to deceive a habeas court just because it similarly deceived the trial court"). November 5, 2012: Rule 60(b) Motion filed concerning the Government's additional fraud on the district court on remand by submitting to the district court an affidavit from DEA Agent Karl Nichols describing OCDETF member agencies undisclosed at trial and falsely asserting that member agencies participation was "minimal." (Cf. United States v. Aileman, 986 F.Supp. 1228, 1276 (N.D. Cal. 1997), stating DEA's contention that OCDETF member agencies participation was "minimal" was "false"). The Government failed to contest this motion. March 21, 2013: Motion for Judicial Notice of the district's court's sealed "CI File" of Skinner, consisting of a.) an undated, unsigned "Risk Assessment"; b.) two Quarterly

Reports dated January 19, 2001 and March 30, 2001 respectively; and c.) a Deactivation Report dated June 27, 2001. District Court (Northern District of California): December 14, 2011: The 9th Circuits reversal of Pickard v. DOJ is now pending in district court in San Francisco, awaiting the Government's release of a Vaughn Index (see Pickard v. DOJ, fn 2) ("Pickard 1") of all DEA records on informant Gordon Todd Skinner. 2012: On remand from the 9th Circuit, DEA attempted to seal its Vaughn Index of Gordon Todd Skinner's DEA records - the first effort of its kind in a FOIA case. DEA's motion was denied by the district court, and DEA was ordered to make public a Vaughn index of each document or portion thereof. 2012: DEA then attempted not to file a detailed Vaughn index, but a generalized affidavit. September 28, 2012: DEA was given five days to provide Skinner's records, or be held in contempt of court. October 3, 2012: DEA produced a partial Vaughn Index of Gordon Todd Skinner's DEA

records, but the index was non-compliant with 9th Circuit standards. District Court (Arizona): August 9, 2011: This proceeding, also entitled Pickard v. DOJ, 4:11-cv- 004420DCB) (D. Arizona)("Pickard II") concerns a FOIA request for "Sec. 6612.13" of the DEA Agent's Manual, cited by the Government as the basis for Gordon Todd Skinner's "risk assessment" sealed by the district court in Kansas. [NB: there is no "Sec. 6612.13" in the DEA Agent's Manual prior to June 28, 2001 during the time Skinner was activated, utilized and deactivated as an informant]. August 18, 2011: Motion to amend complaint (granted) to include as exhibit DEA FOIA release of July 1, 2011 confirming that "Sec. 6612.13" did not exist in the DEA Agent's Manual at the time of Skinner's purported "risk assessment". March 20, 2013: Discovery was conducted through interrogatories and requests for admissions submitted to DEA and responded to by William C. Little, Esq. Office of Chief Counsel, DEA Administrative Law Section.

DEA affidavits indicate that "Risk Assessments" did not exist during the period of Skinner's utilization as an informant. A cross-motion for summary judgment was filed (3/20/13) to determine how Agent Nichols prepared a "Risk Assessment" prior to its first appearance in the DEA Agents Manual and in the absence of any interim policy or directives to field offices, and in an effort to resolve the issue of authenticity of the "Risk Assessment" sealed in the Kansas trial. Pending FOIA Requests: See list of FOIA request ultimately to be litigated in federal court. DEA DOJ DHS EOUSA FBI IRS ONDCP Attorneys, Defendants and Public Interest Groups are invited to contact us regarding these appeals and motions. DEA's NADDIS System: A Guide for Attorneys, the Courts, and Researchers Prepared by Leonard Pickard, FRN 8268711, POB 24550, Tucson, AZ 85734 (aphrodine.1@gmail.com), July, 2011 In the early 1970s, the newly formed DEA established the Narcotics and Dangerous

Information System (NADDIS). NADDIS has become the most widely used tool in law enforcement, with a NADDIS search frequently the first step in any DEA investigation. Comprised of millions of records on individuals rather than on , NADDIS records provide a chronological history of DEA reports on U.S. citizens and foreign "subjects of interest." NADDIS records also exist on individuals with no criminal history, including sports figures, celebrities, politicians, attorneys and researchers 1. In part a collection of abstracts or summaries of individual DEA reports on specific persons, NADDIS has been described by DEA as an "index to and the practical means by which DEA retrieves investigative reports and information from (DEA's) "Investigative Filing and Reporting System (IFRS)"2. Thus, NADDIS is a "pointer index" by which the abstracts can be reviewed quickly to locate selected, complete reports on a subject of interest, address or phone number. Lack of

Public Information on NADDIS Efforts through the Freedom of Information Act (FOIA) to obtain a sample NADDIS record have been rejected by DEA. The Seventh Circuit Court of Appeals has indicated its concerns about the "scanty" secondary literature on NADDIS, further noting that although it would be helpful "to know something about NADDIS," "the government has successfully opposed efforts to obtain discovery aimed at determining the character and reliability of NADDIS, and as a result the record is bare of evidence about it".3 There are few news articles discussing NADDIS1,4 and only one criminology journal article discussing a failed request for NADDIS information5. However, a few recent web-based documents involving DEA contractors have provided insight into the structure of NADDIS.6,7 In response to a FOIA request for NADDIS data by a criminologist for research purposes, DEA previously has provided only a sealed, non-public '"live' (simulated) NADDIS

printout" for review by the district court in camera.8,9 Expansion of NADDIS The number of NADDIS files has grown rapidly, from 1.5 million files in 19843, to 5.5 million files in 200010, through 6.9 million files for the last date for which rigorous data is available11. By extrapolation, using the rate of file creation of approximately 10,000 files per week in 198312 and DEA data from 200713, the NADDIS database currently is estimated to contain files on approximately 8,000,000 individuals. After a DEA interview of a witness or member of the general public during which a subject of interest is discussed, a copy of the report is sent to the DEA Headquarters Records Management Division (SARI)14 for processing into the NADDIS records of the individuals mentioned in the interview. At SARI, over 100 analysts review records in two shifts, with the volume exceeding 40,000 reports each month in 2007. In response to the amount of information collected by NADDIS, DEA has attempted to

apply the Department of Defense TIPSTER technology for automated processing of large amounts of documents into NADDIS14,15,16 using proprietary methods such as HOOKAH14and DEA's FALCON document processing system and FIREBIRD intranet17. A NADDIS record may also contain abstracts or other reports by DEA analysts, legal staff and FBI, in addition to Case Initiation Reports and abstracts of biographical data in an individual's Personal History Report (DEA-202 form). NADDIS Checks as a Preliminary Inquiry on an Individual A NADDIS check is the first step in any criminal inquiry and reveals the existence of any prior reports of investigation or mention in any file of an individual, business, airfield, plane, vessel or phone number7. The existence of a NADDIS record on an individual has been employed to provide probable cause for airport searches18, surveillance and home entries. By contrast, the absence of a NADDIS record has been grounds for permitting bond for criminal

defendants. NADDIS also is routinely used by DEA and other agencies to conduct background checks on prospective employees, contractors19 and informants20, with a NADDIS check in one instance revealing a DEA database contractor's prior involvement in trafficking21. The NADDIS Access Log or "Detail Report" NADDIS logs the access of NADDIS by any authorized DEA employee and records the time, date, location and identity of the employee who requested access to a particular file. These access logs or "detail reports" have been utilized by DEA Headquarters to identify DEA employees who provided NADDIS records to criminal organizations or who have improperly accessed NADDIS21. Agencies' access logs have also been considered by district courts in resolving legal issues over the timing of agents' and prosecutors' awareness of investigative records on a subject22,23. Thus, the use of NADDIS detail reports to detect government improprieties is similar to the use of other law

enforcement database access logs in demonstrating police misconduct. For example, in Kansas the FBI's Interstate Identification Index (III) access log confirmed improper access by a sheriff who conducted criminal history checks against political opponents24. The First NADDIS Record Released by DEA through FOIA In 2010, after a decision by the Department of Justice Office of Information Policy (OIP) and mediation by the National Archives and Records Adminstration (NARA) Office of Government Information Services (OGIS), DEA in a change of policy released for the first time an actual NADDIS record on an individual25a,25b. This FOIA release, which was requested and litigated by an incarcerated researcher26a for records on an unrelated and deceased third party in an effort to characterize NADDIS, now permits any individual to obtain their NADDIS record, or that of any deceased third party, or any living third party (with a signed, original DOJ-361 release

authorization)27. The DEA FOIA release demonstrates that NADDIS includes a "Remarks" section (p. 7-10 of the FOIA release, Id.) which contains the date and file number of each DEA report on a subject, and which abstracts and summarizes the content of the complete report. Hence, this recent FOIA release by DEA may be employed as an exhibit in pre- trial discovery requests for NADDIS records, or as an exhibit by other FOIA requestors seeking NADDIS records. The Use of NADDIS by the Courts, Defense Bar and Prosecution With the change in DEA policy regarding release of NADDIS records through FOIA, production of NADDIS records of government witnesses and defendants through FOIA requests provides a valuable resource for the defense bar for both investigative purposes and as a check on potential government improprieties concerning the narrative of events and origins of an investigation. For example, NADDIS provides the date of DEA's first

record on an individual and the actual chronology of an investigation22. NADDIS access logs or detail reports can also be used to determine the date of inquiries to NADDIS, to assess the involvement of other agencies22, and to corroborate or impeach witnesses' testimony. The production of government witnesses' NADDIS records may also be requested in pretrial discovery motions and required by the court as exculpatory or impeachment material in compliance with the government's obligations. Although a NADDIS record on a witness (pointing to all associated DEA Reports of Investigation) is inherently impeaching, NADDIS is infrequently requested by defense counsel and rarely, if ever, provided by the government in any case. Yet, NADDIS records now accessible through FOIA may also provide alternative theories of defense or exculpatory material and, significantly, will also point to all DEA records on an individual rather than simply the records selected for disclosure in the course

of pre-trial discovery. Additionally, the 9th Circuit recently concluded as "a matter of first impression and great importance" that all agency records of government witnesses who are officially confirmed as informants by agents' testimony at trial are now accessible through FOIA26b. The Future of NADDIS NADDIS increasingly will be employed and shared by multiple federal agencies in the post-9/11 digital environment. NADDIS is likely to be included in the datasets of the more than 53 government agencies now contributing records to FBI's Investigative Data Warehouse (IDW)28,29 and the DHS Immigration and Customs Enforcement Pattern Analysis and Information Collection (ICEPIC) system30,31. As an effective tool in the detection of terrorism-related heroin trafficking, NADDIS may be used to link Taliban-influenced Afghan government officials and heroin sources in Afghanistan for purposes of selective enforcement, more efficient allocation of federal

agencies' resources, reduction of corruption, and for study and analysis of the terrorism-narcotics nexus32,33b. NADDIS is becoming an even more significant contributor to the intelligence community's (IC) datamarts for federal and international agencies' characterization of nascent and existing major violent narcotics organizations linked to terrorism. NADDIS through FOIA now is accessible to criminal justice policy researchers concerned with selective enforcement methods, violent crime demographics32,33a,33b, epidemics34 and the impact of information-sharing on personal privacy and civil liberties35. Acknowledgements Research assistance for this paper was provided by Dr. Tim Scully and John Barth Beresford. Attorneys and researchers are invited to contact the author on NADDIS and FOIA issues at FRN 82687011, POB 24550, Tucson, AZ 85734 (aphrodine.1@gmail.com). References and Endnotes: 1. Grim, Vanessa Jo. UPI Release, "VIP Names in Agency's

Computer Files," July 3, 1984. 2. Zavala v. DEA, 2009 U.S. Dist. LEXIS 102357 (D.D.C. 2009). 3. U.S. v. Ornelas-Ledesma, 16 F.3d. 714 (7th Cir. 1994) ("The government has successfully opposed effort to obtain discovery aimed at determining the character and reliability of the NADDIS database, and as a result the record is bare of evidence about it. At argument the government's lawyer, while saying she had used NADDIS herself, disclaimed any knowledge about the system except how to access it.") 4. Government Computer News, July 8, 1991, p. 85. 5. Yeager, Matthew. "The Freedom of Information Act as a Methodological Tool: Sueing the Government for Data," Canadian Journal of Criminology (see http://www.ccja-acip.ca/en/cjc/cjc48a4.html). 6. DEA-07-R-0036, Amendment 2, SF 1449 (NADDIS "supports making key investigative data available to Enforcement Administration (DEA) intelligence analysts, investigative personnel

and other users in the law enforcement community" (p. 7). 7. (Id.) Answer to Questions: DEA-07- R-0036 ("there is an average of 3 or more names (person, business, vessel, etc.) on a document"). 8. Yeager v. DEA, 678 F.2d 315, 325 *(D.C. Cir. 1981). 9. Yeager v. DEA, 1979 Dist. D.C. LEXIS 15374 (1979). 10. see, e.g. DEA-6 reports of investigation published in State v. Skinner (CF- 03-4213, Tulsa County, OK). 11. DEA website (www.dea.gov), May, 2008. 12. op. cite DEA-07-R-0036, Amendment 2. 13. op. cite, ID. Answers. 14. DARPA Workshop ("TIPSTER Text Program") held at Vienna, Virginia, May 6-8, 1996 ("The HOOKAH Information Extraction System" Chris Barclay, Sean Boisen, Clinton Hyde, and Ralph Weischdel, BBN Systems and Technologies, 70 Fawcett St., Cambridge, MA 02138 sboisen@bbn.com, 617-873-4309) (noting NADDIS is "a semi-formatted report generated primarily by field agents, as well as legal staff, analysts, and

others contracted out to more than 100 analysts working in two shifts"). 15. TIPSTER overview at http://www.fas.org/irp/program/process/tipster.htm. 16. TIPSTER sponsored by DARPA, see http://portal.acm.org/citation.cfm?id=146565.146567. 17. DEA's FALCON document processing system and FIREBIRD intranet, (see www.nortelgov.com). 18. U.S. v. $141,770.00 in United States Currency, 7 F.3d 1355, 1357 (8th Cir. 1993). 19. DEA Special Contract Requirements: H.1 DEA- 2852.204-83 Security Requirements for Personnel Security Access Level: DEA Sensitive/U.S. Citizenship Required (November 2005)("DEA will conduct a background investigation on all contractor personnel." The type of background investigation will be determined by DEA. As a minimum, DEA will conduct a National Agency Check and Inquiry (NACI) that includes telephone inquiries of the applicant's employers, references, and associates regarding the

suitability of the applicant, and query other Federal agencies' indices and the following records systems: NADDIS, NCIC, NLETS, Credit Reporting Agencies. 20. DEA Agents Manual Sec. 6612 ("Confidential Sources") (available at http://www.nacdl.org; http://www.shroomery.org/9671/DEA-Agents-Manual-rev- 2002; and http://www.scribd.com/doc/6491228/DEA-Agents-Manual- 2002). 21. Kidwell, David. "DEA, FBI Suspend Online Contracts - Firm's Founder Suspected of Ties" Miami Herald, July 3, 1999. 22. U.S. v. Aileman, 986 F.Supp. 1228 1265-68 (N.D. Cal. 1997). 23. U.S. v. Yuzary, 2000 U.S. Dist. LEXIS 7106 (S.D.NY 2000). 24. Eaton v. Meneley, 379 F.3d 949 (10th Cir. 2004). 25a. http://www.scribd.com/doc/42274498/Ron-Stark- NADDIS.Summary. 25b. http://scribd.com/doc/49222494/10-01-10-Dea-to-Wlp-re- 08-0793-f-Ron- Stark-Naddis. 26a. http://www.freeleonardpickard.org/NADDIS.

26b. Pickard v. DOJ, U.S. App. LEXIS 15397 (9th Cir. July 27, 2011); Pickard v. DOJ., 2011 WESTLAW 3134505 (9th Cir. July 27, 2011); see also http://www.ca9.uscourts.gov/datastore/opinions/ 2011/07/2 7/08-15504.pdf. 27. www.doj.gov. 28. http://en.wikipedia.org/wiki/Investigative_Data _Warehous e. 29. Electronic Frontier Foundation report on IDW at http://www.eff.org/issues/foia/investigative- data- warehouse- report. 30. ICEPIC Privacy Impact Assessment, DHS (see http://www.dhs.gov./xlibrary/assets/privacy/priv acy_pia_ic e_icepic.pdf). 31. See http://www.ice.gov/news/library/factsheets/icepi c.htm. 32. Caulkins, Jonathan P., Mark A.R. Kleiman & Jonathan Kulick. Production and Trafficking, Counterdrug Policies and Security and Governance in Afghanistan. NYU Center of International Cooperation (2010). 33a. Kleiman, Mark A.R. When Brute Force Fails: How to

have Less Crime and Less Punishment. Princeton University Press, 2009. 33b. Kleiman, Mark A.R., Jonathan Caulkins and Angela Hawkins. and Policy - What Everyone Should Know. Oxford University Press, June 2011. 34. Caulkins, Jonathan P. "Should the U.S. Direct More Law Enforcement Effort at XTC?" RAND Corporation, Policy Research Center (CT-171) (Santa Monica, California, June 2003). 35. "Protecting Individual Privacy in the Struggle Against Terrorists: A Framework for Program Assessment" National Research Council, National Academies Press, Washington, D.C. (2008). ShareThis Copy and Paste - See more at: http://freeleonardpickard.org/NADDIS/index.html#sthash. Q9jhIs0B.dpufThe following appeals and district court motions are pending: 9th Circuit: July 27, 2011: The 9th Circuit REVERSED AND REMANDED the district court denial of a FOIA complaint for Skinner's records. See 9th Circuit decision in Pickard v.

DOJ, 653 F.3d 782 (9th Cir. July 27, 2011) ("Pickard I"). 10th Circuit: March 21, 2011: Motion to remand for fraud upon the court due to prosecutor's affirmative denial to the district court that no agency other than DEA participated in the investigation. This motion was filed after DOJ through FOIA revealed that the investigation was a multiagency OCDETF and HIDTA investigation (see DEA and DOJ FOIA requests). Oral argument set for January 20, 2012 after Government indicated it was "not prepared" to respond to the motion. June 18, 2012: The Tenth Circuit issued an opinion stating, "We cannot accept the proposition that the government has a free pass to deceive a habeas court into denying discovery just because it similarly deceived the trial court [] We doubt that the governing procedural rules permit the government to gain such an advantage by its own fraudulent conduct." The Tenth Circuit remanded the Kansas case to the district court with instructions to consider

Defendants' claim that the "prosecutor's false statement improperly prevented them from obtaining relevant discovery in the 2255 proceedings." 2012: Opening brief filed requesting that Gordon Todd Skinner's Confidential Informant File (CI File) containing the "risk assessment" (RA file) - sealed in district court at trial in 2003 - be unsealed and made available to the public due to a. the First Amendment and common law right to access to these records; b. Skinner's file already being provided to defense counsel; c. the issue of inauthenticity of the "risk assessment" (see Pickard v. DOJ in Arizona, "Pickard II" infra); d. the need to prevent spoliation or alteration of these exhibits by the government; and e. the 9th Circuit decision in Pickard v. DOJ, 653 F.3d 782 (9th Cir. July 27, 2011)("Pickard I") wherein it was decided that Skinner has no further privacy interests due to his official confirmation as an informant by DEA. May 7, 2013: Oral argument on this date before Tenth Circuit in Denver, over

objection of the Government, regarding the motion to unseal Gordon Todd Skinner's sealed "CI File" in district court, consisting of a.) a "Risk Assessment"; b.) two Quarterly Reports dated January 19, 2001 and March 31, 2001 respectively; and c.) a Deactivation Report dated June 27, 2001. District Court (Kansas): June 14, 2011: Notice of prosecutor's and agent's violation of F.R.Civ.P. Rule 11(b) regarding lack of evidentiary support for the authenticity of the "risk assessment" sealed by the district court at trial. No response by the Government. September 7, 2011: Second notice (revised) of prosecutor's and agent's violation of F.R.Civ.P. Rule 11(b) regarding lack of evidentiary support or the authenticity of the "risk assessment" sealed by the district court at trial. No response by the Government. 2012: Motion for evidentiary hearing was filed on the issue of fraud upon the district court concerning the prosecutor's deception that only DEA was involved in the investigation, whereas afterward

DOJ and FBI through FOIA confirmed the investigation was a multiagency OCDETF and HIDTA investigation (See June 18, 2012 remand on this issue by the Tenth Circuit, stating "We cannot accept the proposition that the government has a free pass to deceive a habeas court just because it similarly deceived the trial court"). November 5, 2012: Rule 60(b) Motion filed concerning the Government's additional fraud on the district court on remand by submitting to the district court an affidavit from DEA Agent Karl Nichols describing OCDETF member agencies undisclosed at trial and falsely asserting that member agencies participation was "minimal." (Cf. United States v. Aileman, 986 F.Supp. 1228, 1276 (N.D. Cal. 1997), stating DEA's contention that OCDETF member agencies participation was "minimal" was "false"). The Government failed to contest this motion. March 21, 2013: Motion for Judicial Notice of the district's court's sealed "CI File" of Skinner, consisting of a.) an undated,

unsigned "Risk Assessment"; b.) two Quarterly Reports dated January 19, 2001 and March 30, 2001 respectively; and c.) a Deactivation Report dated June 27, 2001. District Court (Northern District of California): December 14, 2011: The 9th Circuits reversal of Pickard v. DOJ is now pending in district court in San Francisco, awaiting the Government's release of a Vaughn Index (see Pickard v. DOJ, fn 2) ("Pickard 1") of all DEA records on informant Gordon Todd Skinner. 2012: On remand from the 9th Circuit, DEA attempted to seal its Vaughn Index of Gordon Todd Skinner's DEA records - the first effort of its kind in a FOIA case. DEA's motion was denied by the district court, and DEA was ordered to make public a Vaughn index of each document or portion thereof. 2012: DEA then attempted not to file a detailed Vaughn index, but a generalized affidavit. September 28, 2012: DEA was given five days to provide Skinner's records, or be held in contempt of court. October 3, 2012: DEA produced a partial

Vaughn Index of Gordon Todd Skinner's DEA records, but the index was non-compliant with 9th Circuit standards. District Court (Arizona): August 9, 2011: This proceeding, also entitled Pickard v. DOJ, 4:11-cv- 004420DCB) (D. Arizona)("Pickard II") concerns a FOIA request for "Sec. 6612.13" of the DEA Agent's Manual, cited by the Government as the basis for Gordon Todd Skinner's "risk assessment" sealed by the district court in Kansas. [NB: there is no "Sec. 6612.13" in the DEA Agent's Manual prior to June 28, 2001 during the time Skinner was activated, utilized and deactivated as an informant]. August 18, 2011: Motion to amend complaint (granted) to include as exhibit DEA FOIA release of July 1, 2011 confirming that "Sec. 6612.13" did not exist in the DEA Agent's Manual at the time of Skinner's purported "risk assessment". March 20, 2013: Discovery was conducted through interrogatories and requests for admissions submitted to DEA and responded to by William C. Little, Esq. Office of Chief

Counsel, DEA Administrative Law Section. DEA affidavits indicate that "Risk Assessments" did not exist during the period of Skinner's utilization as an informant. A cross-motion for summary judgment was filed (3/20/13) to determine how Agent Nichols prepared a "Risk Assessment" prior to its first appearance in the DEA Agents Manual and in the absence of any interim policy or directives to field offices, and in an effort to resolve the issue of authenticity of the "Risk Assessment" sealed in the Kansas trial. Pending FOIA Requests: See list of FOIA request ultimately to be litigated in federal court. DEA DOJ DHS EOUSA FBI IRS ONDCP Attorneys, Defendants and Public Interest Groups are invited to contact us regarding these appeals and motions. DEA's NADDIS System: A Guide for Attorneys, the Courts, and Researchers Prepared by Leonard Pickard, FRN 8268711, POB 24550, Tucson, AZ 85734 (aphrodine.1@gmail.com), July, 2011 In the early 1970s, the newly formed DEA

established the Narcotics and Dangerous Information System (NADDIS). NADDIS has become the most widely used tool in law enforcement, with a NADDIS search frequently the first step in any DEA investigation. Comprised of millions of records on individuals rather than on , NADDIS records provide a chronological history of DEA reports on U.S. citizens and foreign "subjects of interest." NADDIS records also exist on individuals with no criminal history, including sports figures, celebrities, politicians, attorneys and researchers 1. In part a collection of abstracts or summaries of individual DEA reports on specific persons, NADDIS has been described by DEA as an "index to and the practical means by which DEA retrieves investigative reports and information from (DEA's) "Investigative Filing and Reporting System (IFRS)"2. Thus, NADDIS is a "pointer index" by which the abstracts can be reviewed quickly to locate selected, complete reports on a subject of

interest, address or phone number. Lack of Public Information on NADDIS Efforts through the Freedom of Information Act (FOIA) to obtain a sample NADDIS record have been rejected by DEA. The Seventh Circuit Court of Appeals has indicated its concerns about the "scanty" secondary literature on NADDIS, further noting that although it would be helpful "to know something about NADDIS," "the government has successfully opposed efforts to obtain discovery aimed at determining the character and reliability of NADDIS, and as a result the record is bare of evidence about it".3 There are few news articles discussing NADDIS1,4 and only one criminology journal article discussing a failed request for NADDIS information5. However, a few recent web-based documents involving DEA contractors have provided insight into the structure of NADDIS.6,7 In response to a FOIA request for NADDIS data by a criminologist for research purposes, DEA previously has provided only a

sealed, non-public "'live' (simulated) NADDIS printout" for review by the district court in camera.8,9 Expansion of NADDIS The number of NADDIS files has grown rapidly, from 1.5 million files in 19843, to 5.5 million files in 200010, through 6.9 million files for the last date for which rigorous data is available11. By extrapolation, using the rate of file creation of approximately 10,000 files per week in 198312 and DEA data from 200713, the NADDIS database currently is estimated to contain files on approximately 8,000,000 individuals. After a DEA interview of a witness or member of the general public during which a subject of interest is discussed, a copy of the report is sent to the DEA Headquarters Records Management Division (SARI)14 for processing into the NADDIS records of the individuals mentioned in the interview. At SARI, over 100 analysts review records in two shifts, with the volume exceeding 40,000 reports each month in 2007. In response to the amount of information

collected by NADDIS, DEA has attempted to apply the Department of Defense TIPSTER technology for automated processing of large amounts of documents into NADDIS14,15,16 using proprietary methods such as HOOKAH14and DEA's FALCON document processing system and FIREBIRD intranet17. A NADDIS record may also contain abstracts or other reports by DEA analysts, legal staff and FBI, in addition to Case Initiation Reports and abstracts of biographical data in an individual's Personal History Report (DEA-202 form). NADDIS Checks as a Preliminary Inquiry on an Individual A NADDIS check is the first step in any criminal inquiry and reveals the existence of any prior reports of investigation or mention in any file of an individual, business, airfield, plane, vessel or phone number7. The existence of a NADDIS record on an individual has been employed to provide probable cause for airport searches18, surveillance and home entries. By contrast, the absence of a NADDIS record has

been grounds for permitting bond for criminal defendants. NADDIS also is routinely used by DEA and other agencies to conduct background checks on prospective employees, contractors19 and informants20, with a NADDIS check in one instance revealing a DEA database contractor's prior involvement in trafficking21. The NADDIS Access Log or "Detail Report" NADDIS logs the access of NADDIS by any authorized DEA employee and records the time, date, location and identity of the employee who requested access to a particular file. These access logs or "detail reports" have been utilized by DEA Headquarters to identify DEA employees who provided NADDIS records to criminal organizations or who have improperly accessed NADDIS21. Agencies' access logs have also been considered by district courts in resolving legal issues over the timing of agents' and prosecutors' awareness of investigative records on a subject22,23. Thus, the use of NADDIS detail reports to detect government

improprieties is similar to the use of other law enforcement database access logs in demonstrating police misconduct. For example, in Kansas the FBI's Interstate Identification Index (III) access log confirmed improper access by a sheriff who conducted criminal history checks against political opponents24. The First NADDIS Record Released by DEA through FOIA In 2010, after a decision by the Department of Justice Office of Information Policy (OIP) and mediation by the National Archives and Records Adminstration (NARA) Office of Government Information Services (OGIS), DEA in a change of policy released for the first time an actual NADDIS record on an individual25a,25b. This FOIA release, which was requested and litigated by an incarcerated researcher26a for records on an unrelated and deceased third party in an effort to characterize NADDIS, now permits any individual to obtain their NADDIS record, or that of any deceased third party, or any living third party (with a

signed, original DOJ-361 release authorization)27. The DEA FOIA release demonstrates that NADDIS includes a "Remarks" section (p. 7-10 of the FOIA release, Id.) which contains the date and file number of each DEA report on a subject, and which abstracts and summarizes the content of the complete report. Hence, this recent FOIA release by DEA may be employed as an exhibit in pre- trial discovery requests for NADDIS records, or as an exhibit by other FOIA requestors seeking NADDIS records. The Use of NADDIS by the Courts, Defense Bar and Prosecution With the change in DEA policy regarding release of NADDIS records through FOIA, production of NADDIS records of government witnesses and defendants through FOIA requests provides a valuable resource for the defense bar for both investigative purposes and as a check on potential government improprieties concerning the narrative of events and origins of an investigation. For example,

NADDIS provides the date of DEA's first record on an individual and the actual chronology of an investigation22. NADDIS access logs or detail reports can also be used to determine the date of inquiries to NADDIS, to assess the involvement of other agencies22, and to corroborate or impeach witnesses' testimony. The production of government witnesses' NADDIS records may also be requested in pretrial discovery motions and required by the court as exculpatory or impeachment material in compliance with the government's obligations. Although a NADDIS record on a witness (pointing to all associated DEA Reports of Investigation) is inherently impeaching, NADDIS is infrequently requested by defense counsel and rarely, if ever, provided by the government in any case. Yet, NADDIS records now accessible through FOIA may also provide alternative theories of defense or exculpatory material and, significantly, will also point to all DEA records on an individual rather than simply

the records selected for disclosure in the course of pre-trial discovery. Additionally, the 9th Circuit recently concluded as "a matter of first impression and great importance" that all agency records of government witnesses who are officially confirmed as informants by agents' testimony at trial are now accessible through FOIA26b. The Future of NADDIS NADDIS increasingly will be employed and shared by multiple federal agencies in the post-9/11 digital environment. NADDIS is likely to be included in the datasets of the more than 53 government agencies now contributing records to FBI's Investigative Data Warehouse (IDW)28,29 and the DHS Immigration and Customs Enforcement Pattern Analysis and Information Collection (ICEPIC) system30,31. As an effective tool in the detection of terrorism-related heroin trafficking, NADDIS may be used to link Taliban-influenced Afghan government officials and heroin sources in Afghanistan for purposes of selective

enforcement, more efficient allocation of federal agencies' resources, reduction of corruption, and for study and analysis of the terrorism-narcotics nexus32,33b. NADDIS is becoming an even more significant contributor to the intelligence community's (IC) datamarts for federal and international agencies' characterization of nascent and existing major violent narcotics organizations linked to terrorism. NADDIS through FOIA now is accessible to criminal justice policy researchers concerned with selective enforcement methods, violent crime demographics32,33a,33b, epidemics34 and the impact of information-sharing on personal privacy and civil liberties35. Acknowledgements Research assistance for this paper was provided by Dr. Tim Scully and John Barth Beresford. Attorneys and researchers are invited to contact the author on NADDIS and FOIA issues at FRN 82687011, POB 24550, Tucson, AZ 85734 (aphrodine.1@gmail.com). References and Endnotes: 1. Grim, Vanessa Jo.

UPI Release, "VIP Names in Agency's Computer Files," July 3, 1984. 2. Zavala v. DEA, 2009 U.S. Dist. LEXIS 102357 (D.D.C. 2009). 3. U.S. v. Ornelas-Ledesma, 16 F.3d. 714 (7th Cir. 1994) ("The government has successfully opposed effort to obtain discovery aimed at determining the character and reliability of the NADDIS database, and as a result the record is bare of evidence about it. At argument the government's lawyer, while saying she had used NADDIS herself, disclaimed any knowledge about the system except how to access it.") 4. Government Computer News, July 8, 1991, p. 85. 5. Yeager, Matthew. "The Freedom of Information Act as a Methodological Tool: Sueing the Government for Data," Canadian Journal of Criminology (see http://www.ccja-acip.ca/en/cjc/cjc48a4.html). 6. DEA-07-R-0036, Amendment 2, SF 1449 (NADDIS "supports making key investigative data available to Enforcement Administration (DEA)

intelligence analysts, investigative personnel and other users in the law enforcement community" (p. 7). 7. (Id.) Answer to Questions: DEA-07- R-0036 ("there is an average of 3 or more names (person, business, vessel, etc.) on a document"). 8. Yeager v. DEA, 678 F.2d 315, 325 *(D.C. Cir. 1981). 9. Yeager v. DEA, 1979 Dist. D.C. LEXIS 15374 (1979). 10. see, e.g. DEA-6 reports of investigation published in State v. Skinner (CF- 03-4213, Tulsa County, OK). 11. DEA website (www.dea.gov), May, 2008. 12. op. cite DEA-07-R-0036, Amendment 2. 13. op. cite, ID. Answers. 14. DARPA Workshop ("TIPSTER Text Program") held at Vienna, Virginia, May 6-8, 1996 ("The HOOKAH Information Extraction System" Chris Barclay, Sean Boisen, Clinton Hyde, and Ralph Weischdel, BBN Systems and Technologies, 70 Fawcett St., Cambridge, MA 02138 sboisen@bbn.com, 617-873-4309) (noting NADDIS is "a semi-formatted report generated primarily by field

agents, as well as legal staff, analysts, and others contracted out to more than 100 analysts working in two shifts"). 15. TIPSTER overview at http://www.fas.org/irp/program/process/tipster.htm. 16. TIPSTER sponsored by DARPA, see http://portal.acm.org/citation.cfm?id=146565.146567. 17. DEA's FALCON document processing system and FIREBIRD intranet, (see www.nortelgov.com). 18. U.S. v. $141,770.00 in United States Currency, 7 F.3d 1355, 1357 (8th Cir. 1993). 19. DEA Special Contract Requirements: H.1 DEA- 2852.204-83 Security Requirements for Personnel Security Access Level: DEA Sensitive/U.S. Citizenship Required (November 2005)("DEA will conduct a background investigation on all contractor personnel." The type of background investigation will be determined by DEA. As a minimum, DEA will conduct a National Agency Check and Inquiry (NACI) that includes telephone inquiries of the applicant's employers,

references, and associates regarding the suitability of the applicant, and query other Federal agencies' indices and the following records systems: NADDIS, NCIC, NLETS, Credit Reporting Agencies. 20. DEA Agents Manual Sec. 6612 ("Confidential Sources") (available at http://www.nacdl.org; http://www.shroomery.org/9671/DEA-Agents-Manual-rev- 2002; and http://www.scribd.com/doc/6491228/DEA-Agents-Manual- 2002). 21. Kidwell, David. "DEA, FBI Suspend Online Contracts - Firm's Founder Suspected of Ties" Miami Herald, July 3, 1999. 22. U.S. v. Aileman, 986 F.Supp. 1228 1265-68 (N.D. Cal. 1997). 23. U.S. v. Yuzary, 2000 U.S. Dist. LEXIS 7106 (S.D.NY 2000). 24. Eaton v. Meneley, 379 F.3d 949 (10th Cir. 2004). 25a. http://www.scribd.com/doc/42274498/Ron-Stark- NADDIS.Summary. 25b. http://scribd.com/doc/49222494/10-01- 10-Dea-to-Wlp-re- 08-0793-f-Ron- Stark-Naddis. 26a.

http://www.freeleonardpickard.org/NADDIS. 26b. Pickard v. DOJ, U.S. App. LEXIS 15397 (9th Cir. July 27, 2011); Pickard v. DOJ., 2011 WESTLAW 3134505 (9th Cir. July 27, 2011); see also http://www.ca9.uscourts.gov/datastore/opinions/ 2011/07/2 7/08-15504.pdf. 27. www.doj.gov. 28. http://en.wikipedia.org/wiki/Investigative_Data _Warehous e. 29. Electronic Frontier Foundation report on IDW at http://www.eff.org/issues/foia/investigative- data- warehouse- report. 30. ICEPIC Privacy Impact Assessment, DHS (see http://www.dhs.gov./xlibrary/assets/privacy/priv acy_pia_ic e_icepic.pdf). 31. See http://www.ice.gov/news/library/factsheets/icepi c.htm. 32. Caulkins, Jonathan P., Mark A.R. Kleiman & Jonathan Kulick. Production and Trafficking, Counterdrug Policies and Security and Governance in Afghanistan. NYU Center of International Cooperation (2010). 33a. Kleiman,

Mark A.R. When Brute Force Fails: How to have Less Crime and Less Punishment. Princeton University Press, 2009. 33b. Kleiman, Mark A.R., Jonathan Caulkins and Angela Hawkins. and Policy - What Everyone Should Know. Oxford University Press, June 2011. 34. Caulkins, Jonathan P. "Should the U.S. Direct More Law Enforcement Effort at XTC?" RAND Corporation, Policy Research Center (CT-171) (Santa Monica, California, June 2003). 35. "Protecting Individual Privacy in the Struggle Against Terrorists: A Framework for Program Assessment" National Research Council, National Academies Press, Washington, D.C. (2008). ShareThis Copy and Paste - See more at: http://freeleonardpickard.org/NADDIS/index.html#sthash. 4r2zx1bL.dpuf See pdf of decision here. FOR PUBLICATION UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT WILLIAM LEONARD PICKARD, Plaintiff- Appellant, v. DEPARTMENT OF

JUSTICE, Defendant- Appellee. No. 08-15504 D.C. No. 06-CV-00185-CRB OPINION Appeal from the United States District Court for the Northern District of California Charles R. Breyer, District Judge, Presiding Argued and Submitted January 13, 2011—San Francisco, California Filed July 27, 2011 Before: J. Clifford Wallace, Barry G. Silverman, and Richard C. Tallman, Circuit Judges. Opinion by Judge Silverman; Concurrence by Judge Wallace COUNSEL Kim Zeldin (argued), Liner Grode Stein Yankelevitz Sunshine Regenstreif & Taylor LLP, Sacramento, California, for the appellant. Neill Tseng (argued), Assistant United States Attorney, Melinda Haag United States Attorney, Joann M. Swanson, Chief, Civil Division, United States Attorney's Office, San Francisco, California, for the appellee. OPINION SILVERMAN, Circuit Judge: William Leonard Pickard, an inmate at the Federal Correctional Institution in Victorville, California, seeks enforcement of his Freedom of

Information Act request to the Enforcement Administration for records pertaining to confidential informant Gordon Todd Skinner. In response to Pickard's FOIA request, the DEA submitted a Glomar response refusing to confirm or deny the existence of any responsive records pertaining to Skinner, citing exemptions 6 and 7(C), (D) and (F) of the Act. Pickard argues that the government is prohibited from submitting a Glomar response because Skinner has already been "officially confirmed" as a confidential informant in conformity with 5 U.S.C. § 552(c)(2), and that the government now should move on to the next step and produce a Vaughn index. We hold today that because the government officially confirmed Skinner's status as an informant in open court in the course of official proceedings, the government cannot continue to "neither admit nor deny" Skinner's informant status in response to a FOIA request. This is not to say that all documents related to Skinner are subject

to disclosure. We simply hold that since Skinner has already been officially identified as an informant by government counsel and agents, the cat is out of the bag and the government must proceed to the next step — provide an index of the documents it has and make whatever additional objections to disclosure it deems appropriate. PROCEDURAL BACKGROUND On January 25, 2005, Pickard submitted a request to the DEA, an agency that is part of the United States Department of Justice, for "information and documents pertaining to DEA informant Skinner." Pickard specifically sought any information on Skinner's criminal history (including records of arrests, convictions, warrants, or other pending cases), records of all case names, numbers, and judicial districts where he testified under oath, records of all monies paid in his capacity as a federal government informant, all records of instances where the DEA intervened on his behalf to assist him in avoiding criminal

prosecution, all records of administrative sanctions imposed for dishonesty, false claims, or other deceit, all records of any benefits of any nature conferred, all records of deactivation as a confidential informant and the reasons for deactivation, and all records concerning Skinner's participation in criminal investigations. On February 11, 2005, the DEA denied Pickard's request. Citing FOIA Exemptions 6 and 7(C), and without confirming or denying the existence of any records relating to Skinner, the DEA advised Pickard that he would have to provide either proof of death or a privacy waiver from Skinner before any information would be released. Pickard appealed to the Office of Information and Privacy. The OIP upheld the DEA's response, and Pickard filed a complaint in the district court to enforce his FOIA request. After the district court reviewed the complaint and ordered it served, the DEA moved for summary judgment arguing that the Privacy Act, 5 U.S.C.

§ 552a, subsections (j)(2) and (k)(2), and FOIA exemptions 6 and 7(C), (D) and (F), applied to Pickard's request. The district court denied the motion without prejudice, noting that the DEA had not adequately justified its response to the request. The DEA again moved for summary judgment, this time fully briefing why a Glomar response,1 the practice of refusing to confirm or deny the existence of records pertaining to a named individual, was appropriate to Pickard's request and attaching a declaration in support of its response. Pickard filed an opposition in which he cited to another district court decision on a motion in limine by the government. In that motion, the government sought to prevent Pickard from submitting certain evidence at trial to impeach Skinner. In its ruling, the district court stated that "[t]he government provided the court with Skinner's DEA informant file and suggested that the court conduct an in camera review to determine if there were any other occasions where Skinner had served as an

informant." United States v. Pickard, 278 F. Supp. 2d 1217, 1244 (D. Kan. 2003). Pickard's opposition also included a declaration of his own, attesting that at his criminal trial DEA agent Karl Nichols testified that Skinner acted as an informant in Pickard's case. Pickard's declaration also notes that DEA agent Ralph Sorrell also testified at the trial about Skinner's identity and activities as an informant. Pickard also cites to decisions from the Tenth Circuit and from the district court in his criminal case from which it can be deduced that the government called Skinner as a witness at Pickard's trial and elicited testimony from Skinner and DEA agents in which they each specifically acknowledged that Skinner had acted as a confidential informant. See, e.g., United States v. Aperson, 441 F.3d 1162, 1200 (10th Cir. 2006) (referring to testimony provided by Skinner, "the government's primary confidential informant"); United States v. Pickard, 278 F. Supp. 2d 1217, 1244 (D. Kan.

2003); United States v. Pickard, 211 F. Supp. 2d 1287, 1293-96 (D. Kan. 2002) (addressing government's motion in limine regarding evidence offered to impeach Skinner). The government contests the admissibility of certain evidence offered by Pickard, but does not otherwise dispute that Department of Justice attorneys at Pickard's criminal trial elicited testimony in open court from Skinner and DEA agents that identified Skinner as a confidential informant. The district court granted summary judgment in favor of the government, holding that Skinner's identity as a confidential informant had not been "officially confirmed" within the meaning of 5 U.S.C. § 552(c)(2), and that a Glomar response was appropriate under exemptions 7(C) and 7(D). STANDARD OF REVIEW Where the parties do not dispute the district court had an adequate factual basis for its decision and the decision turns on the district court's interpretation of the law, we review the district court's decision de novo. Schiffer v. FBI,

78 F.3d 1405, 1409 (9th Cir. 1996). DISCUSSION [1] The Freedom of Information Act "calls for broad disclosure of Government records." CIA v. Sims, 471 U.S. 159, 166 (1985). "However, Congress has recognized that public disclosure is not always in the public interest, and has therefore provided the nine exemptions listed in 5 U.S.C. § 552(b)." ACLU v. U.S. Dep't of Defense, 628 F.3d 612, 618 (D.C. Cir. 2011) (internal citation and quotation marks omitted). "Given the FOIA's broad disclosure policy, the United States Supreme Court has 'consistently stated that FOIA exemptions are to be narrowly construed.' " Wolf v. CIA, 473 F.3d 370, 374 (D.C. Cir. 2007) (quoting U.S. Dep't of Justice v. Julian, 486 U.S. 1, 8 (1988)). The DEA may, however, provide a Glomar response, "refus[ing] to confirm or deny the existence of records where to answer the FOIA inquiry would cause harm cognizable under a FOIA exception." Wolf, 473 F.3d at 374 (internal quotation marks omitted).

[2] Pickard argues that the DEA's Glomar response is improper is this case because the Department of Justice has "officially confirmed" Skinner's status as a confidential informant within the meaning of 5 U.S.C. § 552(c)(2) by calling him as a witness in Pickard's criminal trial and eliciting testimony from Skinner and from DEA agents that identifies Skinner as an confidential informant. Subsection (c)(2) states: Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially
confirmed. 5 U.S.C. § 552(c)(2). "Where an informant's status has been officially confirmed, a Glomar response is unavailable, and the agency must acknowledge the existence of any

responsive records it holds." Boyd v. Criminal Div. of U.S. Dep't of Justice, 475 F.3d 381, 389 (D.C. Cir. 2007). The district court held that the DEA's Glomar response was valid because Skinner's identity as a confidential informant had not been "officially confirmed" under subsection (c)(2). To determine whether Skinner's identity had been "officially confirmed," the district court applied the standard for the "official acknowledgment" of information. See Afshar v. U.S. Dep't of State, 702 F.2d 1125, 1133 (D.C. Cir. 1983). A fact is deemed "officially acknowledged" only if it meets three criteria: First, the information requested must be as specific as the information previously released. Second, the information requested must match the information previously disclosed; we noted, for example, that official disclosure did not waive the protection to be accorded information that pertained to a later time period. Third, we held that the information requested must already

have been made public through an official and documented disclosure. Fitzgibbon v. CIA, 911 F.2d 755, 765 (D.C. Cir. 1990). Courts have not made any meaningful distinction between "official confirmation" and "official acknowledgment" in the FOIA context. See, e.g., Wolf, 473 F.3d at 376-77; Phillipi v. CIA, 655 F.2d 1325, 1332-33 (D.C. Cir. 1981); Earth Pledge Found. v. CIA, 988 F. Supp. 623, 628 (S.D.N.Y. 1996). Moreover, when information has been either "officially acknowledged" or "officially confirmed," an agency is not precluded from withholding information pursuant to an otherwise valid exemption claim; however, a Glomar response is no longer appropriate, and the agency must confirm or deny the existence of the requested information. See Wolf, 473 F.3d at 379 (holding that an "official acknowledgment waiver relates only to the existence or nonexistence of the records," and remanding "to the district court where the CIA must either disclose any officially

acknowledged records or establish both that their contents are exempt from disclosure and that such exemption has not also been waived"); Benavides v. DEA, 968 F.2d 1243, 1248 (D.C. Cir. 1992) ("The legislative history suggests, in fact, that Congress intended to permit the DEA to withhold documents under 7(C) and 7(D), even if the agency must, under subsection (c)(2) acknowledge their existence.") (citing 132 Cong. Rec. S14295, at H9467 (daily ed. Oct. 8, 1986) (statement of Reps. English and Kindness)). The district court held that "the DEA has set forth evidence showing that there is no official acknowledgment of Skinner as an informant." Citing the declaration proffered by the DEA, the district court noted that "[a] search of the web, as well as of the DEA headquarters and San Francisco division offices was conducted and found no official public pronouncement regarding the status of Skinner as a confidential source." The district court further held that Pickard "has not satisfied his

burden of producing specific information in the public domain showing that the DEA has officially acknowledge Skinner as an informant." It is unclear whether or how the district court addressed evidence that the government had deliberately elicited testimony in Pickard's criminal trial regarding Skinner's status as an informant; however, given this evidence, we find the district court's application of the third criterion of the Afshar standard — whether Skinner's identity has already "been made public through an official and documented disclosure" — too narrow in the context of subsection (c)(2). [3] "A fundamental canon of statutory construction is that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning." Perrin v. United States, 444 U.S. 37, 42 (1979). "When a natural reading of the statute[] leads to a rational, common-sense result, an alteration of meaning is not only unnecessary, but also extrajudicial." Ariz. St. Bd. for Charter Schools

v. U.S. Dep't of Educ., 464 F.3d 1003, 1008 (9th Cir. 2006). An "official confirmation" does not derive from merely any agency employee, but must be authorized by "a person who is invested with a portion of the sovereignty of the [federal government], and who is authorized to exercise governmental functions either of the executive, legislative, or judicial branch of the government." See Chapman v. Gerard, 341 F. Supp. 1170, 1173-74 (D.V.I. 1970), aff'd, 456 F.2d 577, 578 (3d Cir. 1972). On the other hand, nothing in the statute or legislative history suggests that in the context of the interests protected by the (c)(2) exclusion, "official confirmation" requires that the government issue a press release publishing the identity of a confidential informant or that the director of a federal law enforcement agency personally identify the informant. Given these definitions, the plain language of the term "official confirmation" in the context of 5 U.S.C. § 552(c) (2) leads to such a "rational common-

sense result" when read to mean an intentional, public disclosure made by or at the request of a government officer acting in an authorized capacity by the agency in control of the information at issue. [4] Here, the undisputed evidence demonstrates just such a disclosure. The case against Pickard was investigated by the DEA and brought to the United States Attorney, who prosecuted the case based on evidence and testimony gathered by DEA agents. At Pickard's criminal trial, the government, as part of its case- in-chief, intentionally elicited testimony from Skinner and several DEA agents as to Skinner's activities as a confidential informant in open court in the course of official and documented public proceedings. The revelation of Skinner's identity as an informant was not the product of an unofficial leak, nor was it improperly disclosed in an unofficial setting by careless agents. [5] The government basically argues that federal law enforcement agencies should be able

to develop a case for the United States Attorney, have their agents and confidential informants testify at trial in open court about the identity and activities of those confidential informants, but then refuse to confirm or deny the existence of records pertaining to that confidential informant. We cannot abide such an inconsistent and anomalous result. See Ariz. St. Bd. for Charter Schools, 464 F.3d at 1008 ("[C]ourts avoid natural readings that would lead to irrational results.") (internal citation omitted). Thus, a Glomar response is no longer available to the government with respect to Skinner's status as a confidential informant in Pickard's case. [6] This is not to say that the DEA is now required to disclose any of the particular information requested by Pickard. We must maintain equipoise between the public's interest in knowing "what [its] government is up to" and the "legitimate governmental and private interests" in withholding documents subject to otherwise valid FOIA exemptions. Boyd, 475

F.3d at 385; cf. Rebecca Aviel, Restoring Equipoise to Child Welfare, 62 Hastings L.J. 401, 413-14 (2010). Thus we hold only that the government must take the next step. Having previously officially confirmed Skinner's status as an informant, it may no longer refuse to confirm or deny that fact. It must now produce a Vaughn index in response to Pickard's FOIA request,2 raise whatever other exemptions may be appropriate, and let the district court determine whether the contents, as distinguished from the existence, of the officially confirmed records may be protected from disclosure under the DEA's claimed exemptions. See Wolf, 473 F.3d at 380; see also Benavides, 968 F.2d at 1248. CONCLUSION For the foregoing reasons, we REVERSE the district court's grant of summary judgment and REMAND to the district court for proceedings consistent with this opinion. REVERSED and REMANDED. WALLACE, Senior Circuit Judge, concurring: In resolving this case, we must apply 5 U.S.C. §

552(c)(2) to the facts at issue. That section provides: Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed. Id. (emphasis added). In other words, once a confidential informant's status has been "officially confirmed," the Enforcement Agency (DEA) cannot merely provide a Glomar response—that is, refuse to acknowledge or deny the existence of the requested records. Boyd v. Criminal Div. of U.S. Dep't of Justice, 475 F.3d 381, 389 (D.C. Cir. 2007). The specific circumstances pursuant to which an informant's status is deemed "officially confirmed" is a matter of first impression and great importance. Yet, in resolving this issue, both the prior case law and

the legislative history of section 552(c)(2) are of little assistance. It also does not help that the Department of Justice (DOJ) has not promulgated any rule or regulation interpreting this provision. Additionally, while it is true that the plain meaning of statutes govern their interpretation, this principle is not of much assistance here: "official" means "authoritative" or "authorized," Webster's Third New Int'l Dictionary 1567 (3d ed. 1986), but this definition begs the question of who is authorized to make a confirmation official. The DOJ and Pickard unsurprisingly present opposing views of what it means for a government agent to confirm officially an informant's status. Borrowing language from the rule for "official acknowledgments," the DOJ insists that an official confirmation requires that "the information requested must already have been made public through an official and documented disclosure." Fitzgibbon v. C.I.A., 911 F.2d 755, 765 (D.C. Cir. 1990)

(emphasis added). Thus, the DOJ avers that a Glomar response was appropriate in this case because that agency has not issued an official press release disclosing Skinner's status. There is, however, no logical reason for importing the "official acknowledgment" test into the context of section 552(c)(2). As other courts have explained, "official acknowledgment" and official confirmation do not implicate the same concerns. The standard for "official acknowledgment," for instance, was established to protect the government from officially releasing its sensitive information. See id. (explaining that the "official acknowledgment" criteria are significant because they recognize "that in the arena of intelligence and foreign relations there can be a critical difference between official and unofficial disclosures"). In contrast, the purpose of section 552(c)(2) is to protect a confidential informant's privacy and safety. See North v. U.S. Dep't of Justice, 658 F. Supp. 2d 163, 171 (D.D.C. 2009) ("[E]ven

acknowledging the existence of responsive records constitutes an unwarranted invasion of the targeted individual's personal privacy"). As a practical matter, there are several reasons why a government agency would not want to acknowledge officially a fact that is widely reported. But in the section 552(c)(2) context, once a confidential informant's status has been revealed — whether through a documented press release or otherwise — the secrecy of his status is of little value to the government and he does not necessarily enjoy the same level of privacy and safety. What further troubles me about the DOJ's position—that a press release is the only way to confirm officially a confidential informant—is that, to the DOJ's knowledge, no confidential informant has ever been officially confirmed in this manner. It is difficult to believe that Congress intended section 552(c) to be effectively inoperative. See Corley v. United States, 129 S. Ct. 1558, 1566 (2009) ("[O]ne of the most basic interpretive canons [is] that [a]

statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant" (internal quotation marks omitted)). Pickard's position, in contrast to the DOJ's approach, is that when the Government presents testimony and exhibits in open court regarding a confidential informant's status, these disclosures constitute official confirmation. In my view, this interpretation of section 522(c)(2) makes more sense. The Supreme Court has held, albeit in a different context, that "[t]he prosecutor's office is an entity and as such it is the spokesman for the Government." Giglio v. United States, 405 U.S. 150, 154 (1972). Accordingly, in the absence of a different DOJ rule, I believe that so long as the prosecution, as an agent of the Government, has solicited testimony in open court that a witness is a confidential informant, this is sufficient to confirm officially his or her status. I therefore concur with the majority. I do, however, have

one fairly significant concern: interpreting section 552(c) (2) in this manner may create difficulties for both federal prosecutors and confidential informants. On the one hand, prosecutors frequently must rely on informants, who possess vital information, to prosecute dangerous criminals. On the other hand, the DEA and confidential informants have a different interest in secrecy and privacy than federal prosecutors. Yet, under the majority holding, an Assistant United States Attorney can eliminate that privacy interest by asking a single question—i.e., "Did you serve as a confidential informant"—in open court. Given these difficulties, my view of this case may have been different if the DOJ had issued regulations interpreting section 552(c). Under Chevron U.S.A., Inc. v. National Resource Defense Counsel and its progeny, we afford substantial deference to reasonable administrative interpretations of federal statutes promulgated by notice and comment, or otherwise

appropriate rulemaking. 467 U.S. 837, 843 (1984). But by failing to issue such regulations, we are required to afford the DOJ's interpretation of section 552(c) the same amount of deference we give Pickard's or any other litigant's. See Alaska v. Fed. Subsistence Bd., 544 F.3d 1089, 1095 (9th Cir. 2008) ("We do not afford Chevron or [even] Skidmore deference to litigation positions unmoored from any official agency interpretation because Congress has delegated to the administrative official and not to appellate counsel the responsibility for elaborating and enforcing statutory commands" (internal quotation marks omitted)). Of course, as the majority correctly points out, its decision does not necessarily require the DEA to disclose all of the specific information and documents requested by Pickard. "Congress established FOIA" to strike a balance between the public's interest in knowing "what [its] government is up to" and the "legitimate governmental or private

interests" in withholding documents subject to FOIA's exemptions. Boyd, 475 F.3d at 385 (internal quotation marks omitted). Accordingly, at this point, we are merely requiring the DEA to take the next step—that is, to produce a Vaughn index. See Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973) (ordering government to provide an itemized index of the particular FOIA exemptions claimed for each requested document). 1. "The term arose in a case in which the CIA refused to confirm or deny CIA connection to a ship named the Hughes Glomar Explorer." Minier v. CIA, 88 F.3d 796, 800 n.4 (9th Cir. 1996) (citing Phillippi v. CIA, 546 F.2d 1009, 1011 (D.C. Cir. 1976)). 2. A Vaughn index is a comprehensive listing of each withheld document cross- referenced with the FOIA exemption that the government asserts is applicable." Solar Sources, Inc. v. United States, 142 F.3d 1033, 1037 n.3 (7th Cir. 1998).

decision.html#sthash.PjXeTTio.dpuf (Excerpted from and annotated from OCR version. See pdf of article here.) Prisoner Can Use FOIA to Find Out About Snitch By John Roemer Daily Journal Staff Writer A Mill Valley Man [] who is serving life without parole in federal prison for producing by the kilo, can force the government to release information on the informant who testified against him, a 9th Circuit Court of Appeals panel held Wednesday. The decision for the first time spelled out how a confidental informant's status is deemed "officially confirmed" for Freedom of Information Act disclosure purposes. Pickard v. U.S. Department of Justice, 2011DJDAR1176. "The court confirmed that the goal of FOIA is to make as much information about how the government operates as public as possible," said Jennifer Lynch, a staff attorney as the Electronic Frontier Foundation, a free speech advocacy group that monitored the case. The panel voted 3-0 to reverse U.S. District Judge Charles R. Breyer of

San Francisco. It ordered the government to take the next FOIA procedural step: production of an index of the responsive material it possesses, along with any arguments it cares to make about why specific items may be exempt from FOIA disclosure. [] From behind bars, (William Leonard Pickard) has since sought to to learn from the government the criminal history of his former associate Gordon Todd Skinner, who testified for the prosecution at his trial, and to find out whatever inducements Skinner received. Enforcement Administration agents stonewalled, submitted a so-called Glomar response in which they refused to confirm or deny Skinner's informant status. The term arose when federal courts OK'd the CIA's refusal to acknowledge its connection to a spy ship named the Hughes Glomar Explorer. Phillipi v. CIA, 546 F.2d 1009 (D.C. Circuit 1976). Pickard sued and Breyer granted summary judgment to the government, holding Skinner's identify as a confidential informant

had not been "officially confirmed" within the meaning of the FOIA statute. On the contrary, wrote Judge Barry G. Silverman for colleagues J. Clifford Wallace and Richard C. Tallman. At Pickard's crimnal trial, prosecutors elicited testimony from Skinner and from DEA agents regarding Skinner's acts as a confidential informant. That made it official, the panel held. "The revelation of Skinner's identity as an informant was not the product of an unofficial leak, nor was it improperly disclosed in an unofficial setting by careless agents," Silverman wrote. The government's argument that it should be able to withhold on Glomar grounds information about an agent after he has been unmasked in open court cannot prevail, he added. "We cannot abide such an inconsistent and anomalous result." Kim S. Zeldin, a Liner Grode Stein Yakelevitz Sunshine Regenstreif & Taylor litigation partner who represented Pickard on his appeal, said her client hoped his FOIA request could help his case. "He wanted

information to show he had been set up by an informant who was not to be believed, with a view to a further appeal," Zeldin said. She pointed out that Skinner is also serving a life term for kidnaping and assault with a dangerous weapon. She blasted sentencing laws that gave Pickard a similar sentence for manufacturing . "The justice system doesn't seem fair in that regard," she said. A spokesman for U.S. Atorney Melnda L. Haag of the Northern District, whose office defended Pickard's appeal, declined to comment. ShareThis Copy and Paste - See more at: http://freeleonardpickard.org/daily-journal-article.html#sthash.i2iy3Cco.dpufLogin Register Contact Us | Newsletters | Archives | | Mobile | Advertise | Subscribe to the paper Classified Jobs Cars Real Estate Site Web Web Search powered by YAHOO! SEARCH Home News Sports Life Opinion Interact Multimedia Legislature Obituaries Wednesday, December 11, 2013 case witness charged Skinner faces , kidnapping charges Posted: Tuesday, November

04, 2003 By By Steve Fry The Capital-Journal The primary prosecution witness against two men convicted in March of trafficking has been charged in Oklahoma and Nevada with kidnapping and charges. A Nevada federal grand jury in early September charged Gordon Todd Skinner, of Tulsa, Okla., with one count of possession with intent to distribute about 341 grams of a substance containing ecstacy, according to a Nevada court record. Later that month, Skinner and two other people were charged with conspiracy to commit kidnapping, kidnapping and assault and battery with a dangerous weapon, according to Tulsa County, Okla., court records. Skinner, 39, was the prosecution's star witness against Clyde Apperson, 48, and William Leonard Pickard, 57, when they were convicted in U.S. District Court in Topeka of trafficking from a former missile silo in Wamego. Now Apperson is using Skinner's testimony at that trial to request a sentence of 10 years, rather than life in prison.

He contends Skinner's testimony confirms that he played a "minor role" and should get a shorter sentence. Expanded coverage View archived coverage of the case, video and photos. :: In-Depth: Missile silos A federal court jury in Topeka convicted Apperson and Pickard of conspiracy and possession of with intent to distribute more than 10 grams. Each faces a minimum of 10 years in prison and a maximum of life without parole. In seeking a lower sentence for Apperson, defense attorney Mark Bennett is relying in part on Skinner's testimony that Pickard was making all the decisions about the operation and that Apperson was his employee. Quoting Skinner's testimony from the trial, Bennett contends Apperson's job was to set up and tear down the lab, to do mechanical and repair work on the lab and to disguise the lab area. Each time he set up or took down the lab, Apperson was paid $50,000 to $100,000, Bennett wrote in a document filed in U.S. District Court in support of the shorter sentence

for Apperson. "While it cannot be said that Clyde Apperson occupied a 'minimal' role, he clearly occupied a minor role in comparison to the other criminal responsible participants, Skinner and Pickard," Bennett wrote. In the filing, Bennett said relying on Skinner's testimony during the trial wasn't done without some "reluctance" and noted that since the trial Skinner "has provided further evidence as to his character." Steve Fry can be reached at (785) 295- 1206 or steve.fry@cjonline.com. WHAT'S NEXT? Clyde Apperson, 48, and William Leonard Pickard, 57, both of California, are to be sentenced by U.S. District Judge Richard Rogers at 9:30 a.m. Nov. 20. Related Searches DISTRICT JUDGE GORDON TODD SKINNER TULSA (785) 295-1206 U.S. DISTRICT COURT STEVE FRY WILLIAM LEONARD PICKARD DEFENSE ATTORNEY NEVADA OKLAHOMA MARK BENNETT JUDICIAL EVENT UNITED STATES USD STEVE.FRY@CJONLINE.COM

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ApartmentFinder Local business listings The Topeka Capital-Journal Wednesday, December 11, 2013 Sentencing in case rescheduled a fourth time Requests delay case sentences Posted: Saturday, November 01, 2003 By By Steve Fry The Capital-Journal Sentencing for two men convicted of trafficking was rescheduled Friday for the fourth time since the two were convicted in U.S. District Court on March 31. William Leonard Pickard and Clyde Apperson, both from California, will be sentenced by U.S. District Judge Richard Rogers on Nov. 20. Following an 11-week trial, a federal court jury convicted the two men of

conspiracy and possession of with intent to distribute more than 10 grams. Each man faces a minimum of 10 years in prison and a maximum of life in prison without parole. In separate requests made in the past week, the two defendants asked Rogers to postpone sentencing, which was to occur Nov. 6. On Oct. 24, Mark Bennett, Apperson's defense attorney, asked for a delay, saying he was in the midst of a five-week criminal trial in U.S. District Court. In that ongoing case, Bennett is defending one of three people charged with Medicare fraud. That trial began Oct. 20 and is expected to be finished about the last week of November. Expanded coverage :: In-Depth: missile silo case Related story :: Suspicious Silo: Cold War relic site of -related intrigue Video tour QuickTime: [4.8 MB] RealMedia: [T1,cable] • [56k] Windows Media: [T1,cable] • [56k] Photo gallery Take a look at missile silo images from The Capital- Journal's archives. Flash map See where missile silos are in Kansas using the

interactive map. On Thursday, William Rork, Pickard's defense attorney, asked Rogers to postpone sentencing so the U.S. attorney's office could supply Peter F. Lott, an expert witness for Pickard, with more information so Lott, of Kansas City, Mo., could testify about the amount of the controlled substance, according to Rork's request. Without that information, Picard would be "substantially prejudiced in not having sufficient and substantial facts" so Rogers can determine the amount of controlled substance, Rork contended. In a letter to Rork, Lott said, "All the required information has not been provided in the records that have been received to unquestionably confirm calculations made by the (U.S. Enforcement Administration.)" Pickard is seeking all scientific tests, notes, bench notes, calculations and instrument analysis results used by the government in preparing its reports, Rork's request said. The amount of controlled substance possibly could impact the length of sentence Pickard and

Apperson would receive. During the trial, Pickard testified he was in academics and was conducting research with high-level contacts in federal law enforcement circles, the U.S. State Department, Russia and Afghanistan. He told jurors he was en route to destroy an lab on Nov. 6, 2000, when Kansas Highway Patrol troopers stopped his vehicle and a rental truck driven by Apperson. The rental truck was hauling the lab near a converted missile silo in Wamego, where the lab had been stored. Apperson didn't testify during the trial. Prosecution evidence painted Pickard as a chemist who gathered the chemicals and cooked millions of doses of and Apperson as the person who set up, took down and moved the lab. The lab operated in Colorado, New Mexico and a converted missile site in Ellsworth County. was shipped to California and Europe, according to evidence. Apperson, 47, who had been free on bond pending the trial, was taken into custody after he was convicted. Pickard, 57, has been in custody

since Nov. 7, 2000. Steve Fry can be reached at (785) 295- 1206 or steve.fry@cjonline.com. Related Searches UNITED STATES FEDERAL LAW ENFORCEMENT CIRCLES JUDICIAL EVENT EUROPE DISTRICT JUDGE MICROSOFT WINDOWS WILLIAM RORK PICKARD'S DEFENSE ATTORNEY COLORADO U.S. DISTRICT COURT DEFENSE ATTORNEY ELLSWORTH COUNTY LAW_CRIME CHEMICALS AFGHANISTAN U.S. ENFORCEMENT ADMINISTRATION CONVERTED MISSILE SITE RORK CLYDE APPERSON RICHARD ROGERS Site Web Web Search powered by YAHOO! SEARCH SITE MENU CJOnline.com Newsroom directory Contact us Email Edition RSS Feeds Guest Services Community calendar NIE Advertising/Media Kit Sales staff directory Subscribe to print Subscribe to E- Edition Contact us News Archives Local State Legislature Opinion Daily record Obituaries Weather AP Headlines Sports

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sentencing Posted: Tuesday, October 28, 2003 By By Steve Fry The Capital- Journal An attorney representing one of two men convicted of trafficking linked to an laboratory confiscated near a missile silo on the outskirts of Wamego in 2000 has asked for another postponement of the pair's sentencing. Clyde Apperson and William Leonard Pickard, who were convicted of conspiracy and possession of with intent to distribute more than 10 grams, are scheduled to be sentenced on Nov. 6. But Mark Bennett, Apperson's defense attorney, is in the midst of a five-week criminal trial in U.S. District Court. If the request is granted, it would be the fourth scheduled time for the sentencing of the two men. As of Monday, U.S. District Judge Richard Rogers, who heard the case and will sentence the defendants, hadn't issued a decision on whether to grant the request. After an 11-week trial, a federal court jury convicted Pickard and Apperson on March 31. It was the longest criminal trial in U.S. District Court in Topeka

for at least 23 years. The trial started Jan. 13. The first sentencing date was to be Aug. 8 but was postponed to Oct. 3 and then rescheduled to Nov. 6. The Oct. 3 sentencing date was postponed to Nov. 6 so a defense witness called by William Rork, who is representing Pickard, could determine the amount of controlled substances in the case. Coincidentally, the trial Bennett is involved in is being conducted in the same courtroom as the trial of Apperson and Pickard was conducted in earlier this year. In the on- going case, Bennett is defending one of three people charged with Medicare fraud. That trial began Oct. 20 and is expected to be finished about the last week of November. Each defendant in the case faces a minimum of 10 years in prison and a maximum of life in prison without parole. During the trial, Pickard testified he was in academics and was conducting research with high-level contacts in federal law enforcement circles, the U.S. State Department, Russia and Afghanistan. He told

jurors he was en route to destroy an lab on Nov. 6, 2000, when Kansas Highway Patrol troopers stopped his vehicle and a rental truck driven by Apperson. The rental truck was hauling the lab near a converted missile silo in Wamego, where the lab had been stored. Apperson didn't testify during the trial. Prosecution evidence painted Pickard as a chemist who gathered the chemicals and cooked millions of doses of and Apperson as the person who set up, took down and moved the lab. The lab operated in Colorado, New Mexico and a converted missile site in Ellsworth County. was shipped to California and Europe, according to evidence. Apperson, 47, who had been free on bond pending the trial, was taken into custody after he was convicted. Pickard, 57, has been in custody since Nov. 7, 2000. Steve Fry can be reached at (785) 295- 1206 or steve.fry@cjonline.com. Related Searches ATTORNEY RUSSIA STEVE.FRY@CJONLINE.COM APPERSON'S DEFENSE ATTORNEY

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missile base. There was only one use for the ET, he said, and if Skinner had the chemical it was important to know that and to get it back. Pickard said he and Apperson went to the missile base November 4, 2000, to help Skinner move out of the base, but discovered what Pickard thought might be a -production lab, not the Marquardt lab. Pickard said he saw a series of green military containers inside a metal building at the missile base site. "Inside them were white buckets that were heavily scaled," Pickard said. There were also black containers holding a black liquid, he added. In cross-examination, Assistant U. S. Attorney Greg Hough asked Pickard why he didn't call police after discovering a clandestine lab at the missile base; why he fled from authorities the night of November 6, 2000; and why he had 15 different identification cards, none of which contained his real name. "I WASN'T aware of an lab between November 4 and November 7," Pickard said. "I could have called police, but I felt it was

premature to do so because of Mr. Skinner's generosity to me previously and not knowing yet what was in the black buckets." According to previous testimony, Pickard, driving a rented Buick, sped up and tried to pass the Ryder truck driven by Apperson and containing the lab when Kansas Highway Patrol Troopers tried to pull them over the night of November 6. "My memory of the event is different than theirs," Pickard said. "I would never try to flee another vehicle. I recall stopping the car, opening the door and bolting into a residential area, around a house, and into a field" Pickard said "after a very long and trying night," he wound up at a rural farm home (the home of Bill Taylor on Military Trail Rd. between Wamego and St. George where he was arrested the following day). Hough: "You didn't ask to use the Taylors' phone to call police or call your good friend Peter Louie, did you?" (Pickard had testified earlier he had a longstanding relationship about illegal trafficking with Louie, a special agent for

the U. S. Customs Service). Pickard: "Things were pretty scary at that point. I needed time to think things through." Hough: "And when the deputy and Officer (Matt) Pfrang arrived, you ran front them, too, is that right?" Pickard: "Yes, that's correct. I didn't call anyone while I was a fugitive. I was stumbling through the brush and the creeks." Hough: "And after your arrest, you didn't call I anyone from DEA or Customs?" Pickard: "At this point, we were at an adversarial setting." THE EXCHANGES between Hough and Pickard during cross-examination were often contentious. When Hough asked Pickard if he recalled a piece of testimony and said, "Use your mind," Pickard retorted, "Excuse me, Mr. Hough, don't be insulting." When Pickard testified he was concerned about his wife and child, Hough asked which child he was talking about, the one with Trais Kliphuis, or Natalya Kruglova. Pickard retorted, I think that's reprehensible on your part, sir" At one point, U. S. District Court

Judge Richard Rogers intervened in an argument between Hough, Pickard and Defense Attorney Rork. "I'm used to some of this in this trial, and I want you to stop," Rogers said. "And I want you to stop, and I want you to stop quarreling." AN INMATE at a Springfield, Mo. prison testified last Thursday that he saw lab equipment at the converted missile base near Wamego during the time he worked there as an electrician and later when he "socialized" at the base with Gordon Todd Skinner from 1996-99. Twenty-four-year-old Brandon Valerius, serving 92 months for three convictions of methamphetainine possession and distribution, was the final witness to testify in the I I -week conspiracy case. Under direct examination by Pickard Attorney Rork, Valerius identified numerous government photographs of lab equipment seized by authorities the night of November 6, 2000,as being very similar to equipment he saw inside a generator room in the missile base several years before the lab was

reportedly moved to Wamego from an Atlas-E missile base at Carneiro, KS. The testimony of Valerius may have been diluted, however, when it was revealed that prior to his transfer to Springfield, he had spent time at Leavenworth CCA, a holding facility for federal detainees, where he became acquainted with the co-defendant in the case- William Leonard Pickard. In cross-examination by Hough, Valerius said he tried to give authorities information about the lab equipment, but "they didn't want to hear it." "WHO? WHO did you offer to tell?" Hough prodded. "My attorney told me..." "No, that's hearsay," Hough interjected. "I want to know what you did." Valerius said that was the only way he knew how to answer and was excused. In his closing arguments, Hough said no other witness had testified to seeing lab equipment at the base prior to the bust November 6, 2000, and that as a "final act of desperation, he (Pickard) brings in Mr. Valerius, the jailbird," Judge Rogers moves trial to conclusion U. S.

District Court Judge Richard Rogers last Thursday pushed the prolonged conspiracy trial to a conclusion, denying requests, by defense attorneys to call more witnesses and to delay closing arguments until Monday, March 31. William Rork, defense attorney for William Leonard Pickard, told the court he wanted to call four more whitnesses, three of whom were no I not available until early this week, and a fourth who would not testify unless he was granted immunity by the government. Assistant U. S. Attorney Greg Hough objected to allowing the witnesses to testify, saying they had no relevant. information to add to the case. For the same reason, Hough said the government would not extend immunity to the fourth witness. ROGERS AGREED. "The court is not going to extend this case any further," he said, "This case came to the court two years ago and the attorneys have had ample time to prepare this and get your witnesses here. My plan right now is...to have final arguments in this line o'clock in

the morning. I feel we need to bring this case to a head and I intend to do it." Defense attorneys, however, asked the court to delay closing arguments until Monday, giving them more time to prepare. "To suggest that you two very experienced attorneys need more time to prepare your final argument is not a good excuse at all," Rogers said, adding that this has been the longest and most difficult case he has presided over in 26 years on the bench. "Although we may be experienced, judge, there were over 900 exhibits and thousands of pages of reports and notes," Rork, countered "I'm not Superman, judge," MARK BENNETT, defense counsel for co-defendant Clyde Apperson, echoed Rork's appeal, "I've got more experience than I like to admit to, and that experience leads me to ask the court to have closing arguments Monday," Bennett said. "I would respectfully submit that it's not going to make that much of a difference in the overall scheme of things if we delay one more day:' Rogers, however, would

have none of it. "There's been a great deal of wasted time ... a great deal of wasted time in this case," he said. "You need to have some consideration for the jury, which non of us have had for the past I I weeks." With that, defense attorneys rested their case to prepare for closing arguments the following morning. After hearing I I weeks of testimony in the conspiracy trial, one of two alternate jurors was dismissed Friday morning, March 28-the final day of the trial-,- after he overslept and missed about the first 30 minutes of the government's closing arguments in the case. Attorneys present final arguments in trial The Wamego Times, April 03, 2003 by Mark Portell Wamego Times Editor After 42 days of testimony by 29 witnesses and the introduction of more than 1,000 pieces of evidence, the case against William Leonard Pickard and Clyde Apperson was turned over to the jury just before 5 p.m. Friday, March 28. Pickard, 57, and Apperson, 47, are charged with conspiracy to manufacture and distribute more

than 10 grams of . They were arrested in early November, 2000, after leaving the former Wamego missile base with what authorities described as a ,'very large" lab. Jurors heard closing arguments from the prosecution and defense attorneys Friday before receiving final instructions from U. S. District Court Judge Richard Rogers. "AS YOU can see, this was a hard tried case," Rogers told the j jurors. "I think the attorneys all did a very good job with a very difficult case. I'd say this was an unusual case. In my 26 years (as a federal judge) I've never had one go this long. Jurors began deliberations in the case Monday morning, March 31. In closing arguments Friday, Assistant U. S. Attorney Greg Hough told jurors: "What you have here is two California men who want to sell you some ocean-front property in Kansas. The fact is, the ocean is not in Kansas. You see the defendants before you, stripped to the bone for what they are ... manufacturers with an distribution network."

Defense attorneys for Pickard and Apperson- William Rork and Mark Bennett- claimed the government presented only the evidence that was supportive of their case. They discredited the government's informant and main witness, Gordon Todd Skinner, calling him a liar and a thief. "THIS WAS a set-up, ladies and gentlemen," Bennett told the jury, "a set-up in which Gordon Skinner was trying to get out of his own problems. The government, much to their chagrin, found out later Mr. Skinner never met a lie he didn't like or embrace." Bennett said he did not dispute that Apperson was driving the Ryder truck containing the lab the night of November 6, 2000. "But we do dispute he had knowledge he was transporting an illegal lab," Bennett said. "He has no criminal record and there is no evidence Clyde Apperson was involved with any glassware or chemicals." "Would you buy a used car from Mr. Skinner?" Rork asked jurors. "Mr. Pickard's misfortune was meeting him in 1998, and later becoming

financially dependent on him. If it doesn't fit the government's case, you ain't gonna hear it, I guarantee it. It's like the old Wendy's commercial: "Where's the beef?" Of the 29 witnesses called in the trial, the government called 20, and Rork called nine to testify on behalf of Pickard. Bennett chose not to call any witnesses and his client declined to testify. Hough told jurors that aside from Skinner's testimony, there were undisputed facts in the case proving the guilt of Pickard and Apperson; that Skinner had "admitted all of his warts" on the stand; and that Pickard and Apperson could be linked to three of the four labs ever busted by the DEA dating back to 1988, when Pickard's lab was busted at Mountain View, Calif. "WE KNOW that Pickard and Apperson returned to Wamego because they wanted their ET. They demanded their ET," Hough said, advising jurors to review video and audio tapes secretly taped by DEA agents in the days leading up to the bust. "Mr Pickard was the chemist, the lead

man. He's not the mild- mannered policy schmuck he would have you believe. Mr. Pickard was in charge all along," Hough said. "Mr. Apperson would have you believe he's stupid. Anyone-a fifth-grade kid-has had enough science to know this was a laboratory. "Regarding the audiotapes, Rork pointed out that two DEA recording devices malfunctioned November 3, 2000-the day agents accompanied Skinner to Tulsa to meet with Pickard and Apperson. "Oh, gee golly whiz," Rork said. "If that (conversation) was on tape would that have hurt the government's theory? Again, I can go on and on about dozens of pieces of evidence that don't fit the government's plan that you won't hear about. You have Skinner's version and you have Pickard's version. "I'M NOT going to ask you to vote not guilty. I'm not going to ask you to vote guilty," Rork said. "I'm going to ask you to vote as if it was your loved one or brother facing this charge. Hold Mr. Hough-anything he says-to the record. It's not a

contest. Did the government meet its burden of proof?" "Test what he says," Bennett said of Hough. "Challenge in your mind what he says. Don't just accept at face value what he says because the government's not always right and the government doesn't always do what it ought to do. "I told you in my opening statement we were going to prove ... that Mr. Skinner and the truth are total strangers, and we did," Bennett said. "Give his testimony no credibility. Throw it out. Everybody except Skinner got on the stand and told you what they know and not one of them told you they had any knowledge Clyde Apperson was involved in anything". "Conspiracies hatched in hell do not have angels as participants," Hough said of Skinner. "The defendants want you to go right to Skinner and disregard everything else. There's simply no justification for ignoring the man's testimony because of the corroboration. Eight hundred pieces of evidence and 19 (government) witnesses tell you these men are guilty. "THEY

CHOSE Gordon Todd Skinner as their accomplice and co–conspirator," Hough said. "The men shared the love of . It's what those two men are about; it's what Mr. Skinner was about; it's what this case is about. "The defendants are gamesmen and gamblers," Hough said. "But the truth is ... in this case, they've rolled craps."Login Register Contact Us | Newsletters | Archives | | Mobile | Advertise | Subscribe to the paper Classified Jobs Cars Real Estate Site Web Web Search powered by YAHOO! SEARCH Home News Sports Life Opinion Interact Multimedia Legislature Obituaries Wednesday, December 11, 2013 Pickard, Apperson guilty trial: Each man faces a minimum of 10 years in prison or a maximum of life without parole Posted: Tuesday, April 01, 2003 By By Steve Fry The Capital-Journal Six hours after they began deliberating, federal jurors on Monday convicted two California men of trafficking charges linked to a missile silo at Wamego. Following the longest criminal trial in

U.S. District Court in Topeka in at least 23 years, jurors found William Leonard Pickard, 57, and Clyde Apperson, 47, guilty of conspiracy and possession of with intent to distribute more than 10 grams. Monday was the first day of the 12th week of the trial, which started Jan. 13. U.S. District Judge Richard Rogers will sentence Pickard and Apperson on Aug. 8. Each defendant faces a minimum of 10 years in prison to a maximum of life in prison without parole. The defendants, first Apperson followed by Pickard, were stone-faced as the verdicts were read. Within minutes of the verdicts, Apperson, who had been free on bond pending the trial, was handcuffed and taken into custody. Pickard has been in custody since Nov. 7, 2000. Pickard portrayed himself as an academic conducting research with high- level contacts in federal law enforcement circles, the U.S. State Department, Russia and Afghanistan. He told jurors he was en route to destroy an lab Nov. 6, 2000, when Kansas Highway Patrol

troopers stopped his vehicle and a rental truck driven by Apperson, which was hauling the lab, near a converted missile silo in Wamego. Prosecution evidence painted Pickard as the chemist who gathered the chemicals and cooked millions of doses of and Apperson as the person who set up, took down and moved the lab. The lab operated in Colorado, New Mexico and a converted missile site in Ellsworth County, then was shipped to California and Europe, according to evidence. Expanded coverage • Web In-Depth: Missile silos and past trial coverage Related story • Suspicious Silo: Cold War relic site of -related intrigue Video tour QuickTime: [4.8 MB] RealMedia: [T1,cable] • [56k] Windows Media: [T1,cable] • [56k] Photo gallery Take a look at missile silo images from The Capital-Journal's archives. Flash map See where missile silos are in Kansas using the interactive map. Scott Lowry, the presiding juror, said jurors "found that the evidence was clear and convincing. It was a pretty easy

verdict to come to." That jurors needed only six hours to reach the guilty verdicts following a long trial was indicative of how jurors felt about the evidence, Lowry said. Another juror, Jim Mason, said audio tapes in which jurors heard the defendants' voices use the words "my" and "our" when referring to an chemical they wanted returned to them was important evidence. Most of the evidence was "pertinent," Mason said. As little as three hours before the verdicts were announced, there were at least four jurors who were undecided about the guilt or innocence of Pickard and Apperson, Mason said. If there was a gray area, it was how big a part Apperson played, and jurors voted several times before the guilty verdicts were reached, he said. Mason, a line mechanic for an electronics company, drove to Topeka and stayed here during the week, then returned home where he worked 12- hour shifts during some of his days off. Assistant U.S. Attorney Greg Hough praised the work of Ralph Sorrell, a Leavenworth police

officer assigned to a federal Enforcement Agency task force, and DEA special agents Karl Nichols and Roger Hanzlik. "Given the overwhelming amount of evidence and the tremendous investigative job by Sorrell, Nichols and Hanzlik, the verdict in this amount of time should surprise no one," Hough said. Mark Bennett, Apperson's defense attorney, expressed "disappointment" with the verdict. William Rork, Pickard's defense attorney, said the trial "was one of the toughest cases I've ever defended in trying to get all the facts before the jury to consider." Rork complained that defendants had to "play hide-and-seek" with the government to get evidence about the case. Rogers praised the jury for its lengthy service. "If anyone is entitled to thanks for carrying out a patriotic and civic duty, it's you, with merit," he said. Steve Fry can be reached at (785) 295-1206 or sfry@cjonline.com. Related Searches SFRY@CJONLINE.COM ELLSWORTH COUNTY U.S. DISTRICT COURT

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converted missile silo base at Wamego. William Leonard Pickard, 57, and Clyde Apperson, 47, were convicted of conspiracy and possession of with intent to distribute more than 10 grams. Sentencing for the two men will be Aug. 8 in U.S. District Court before District Judge Richard Rogers. The verdict today ended what had been the longest criminal trial in the federal courthouse in Topeka in at least 23 years, according to courthouse officials. Expanded coverage • Web In- Depth: Missile silos and past trial coverage Related story • Suspicious Silo: Cold War relic site of -related intrigue Video tour QuickTime: [4.8 MB] RealMedia: [T1,cable] • [56k] Windows Media: [T1,cable] • [56k] Photo gallery Take a look at missile silo images from The Capital- Journal's archives. Flash map See where missile silos are in Kansas using the interactive map. Jury selection began Jan. 13, the same day Gov. Kathleen Sebelius and other state and county officials were sworn into office. Prosecution witnesses began

testifying three days later, the first witness being a Kansas Highway Patrol lieutenant. Pickard has testified he was en route to destroy an lab on Nov. 6, 2000, when Kansas Highway Patrol troopers stopped his vehicle and a rental truck driven by Apperson, near a converted missile silo in Wamego. Related Searches RICHARD ROGERS PHOTO GALLERY TAKE KANSAS HIGHWAY PATROL LIEUTENANT PATROL RELIC SITE SUSPICIOUS SILO DISTRICT JUDGE WILLIAM LEONARD PICKARD MICROSOFT WINDOWS JUDICIAL EVENT KANSAS GOVERNOR CLYDE APPERSON KATHLEEN SEBELIUS U.S. DISTRICT COURT LAW_CRIME WEB IN-DEPTH Site Web Web Search powered by YAHOO! SEARCH SITE MENU CJOnline.com Newsroom directory Contact us Email Edition RSS Feeds Guest Services Community calendar NIE Advertising/Media Kit Sales staff directory Subscribe to print Subscribe to E-Edition Contact us News Archives Local State

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Legislature Obituaries Wednesday, December 11, 2013 jury to begin deliberations today Posted: Friday, March 28, 2003 By The Capital-Journal Defense attorneys on Thursday rested their cases in the trial of two men charged with trafficking in . The attorneys questioned nine witnesses over 14 days in defense of William Leonard Pickard, 57, and Clyde Apperson, 47, who are being tried in U.S. District Court. They are charged with conspiracy and possession of with intent to distribute more than 10 grams. The jury hearing the 11-week trial is to begin deliberations today. Pickard has testified he was en route to destroy an lab on Nov. 6, 2000, when Kansas Highway Patrol troopers stopped his vehicle and a rental truck driven by Apperson, which was hauling the lab itself, near a converted missile silo at Wamego. Over 42 days of testimony, jurors heard 29 witnesses, 20 called by the U.S. attorney's office and nine called by Pickard. Apperson didn't summon any witnesses and didn't testify. Jurors will hear

closing arguments today, first from Assistant U.S. Attorney Greg Hough and then from William Rork, Pickard's attorney. After a lunch break, Mark Bennett, who represents Apperson, will speak before Hough completes closing arguments. U.S. District Judge Richard Rogers will give the jury instructions. Jurors were told Thursday that they could come in on Saturday to deliberate, but whether to do that will be decided today. Bennett and Rork asked Rogers for more time to ready themselves to make closing remarks to jurors, but Hough said he was ready. Rogers refused to delay the trial, twice saying the jurors had to be considered. "There has been a great deal of wasted time in this trial," he said. Expanded coverage • Web In-Depth: Missile silos and past trial coverage Related story • Suspicious Silo: Cold War relic site of -related intrigue Video tour QuickTime: [4.8 MB] RealMedia: [T1,cable] • [56k] Windows Media: [T1,cable] • [56k] Photo gallery Take a look at missile silo images from

The Capital- Journal's archives. Flash map See where missile silos are in Kansas using the interactive map. The death of a relative is pending for one juror, Rogers told defense and prosecution attorneys. The trial's last witness testified that there was laboratory glassware at the Wamego site before Pickard and Gordon Todd Skinner, the base's owner, ever met. Testimony by Brandon Valerius followed that of Pickard, who stepped out of the witness box on Wednesday after nine and one-half days on the stand, which was a half day longer than Skinner, the prosecution's primary witness. Valerius, 24, wore the bright orange jump suit of a federal prisoner. Valerius, formerly of Manhattan, is serving a sentence of seven years and eight months for three convictions of possession of methamphetamine with intent to distribute. In January 1996, Valerius was working part- time for Economy Electric, an electrical contractor, in a job at the Wamego site. While working there, Valerius said he had access to quite a few

rooms at the site, where he saw glassware and other laboratory items. Valerius is the only witness during the trial to testify he saw lab equipment inside the former missile silo site. Other witnesses have said the lab equipment was in a prefabricated metal building on the grounds. Valerius also said Skinner had stacks of cash and testified he saw Skinner and others using controlled substances at the site. Valerius knew Skinner at the site and later, while imprisoned at a Corrections Corporation of America facility in Leavenworth in 2002, met him again and the two discussed their legal situations. However, Valerius said he stopped talking to Pickard on advice of his attorney. Steve Fry can be reached at (785) 295-1206 or sfry@cjonline.com. Related Searches BRANDON VALERIUS (785) 295- 1206 CLYDE APPERSON RICHARD ROGERS PERSON COMMUNICATION AND MEETINGS WEB IN-DEPTH PICKARD'S ATTORNEY ASSISTANT U.S. ATTORNEY

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Staff blogs Community Blogs Columnists Letters to the editor Spotted Forums Fun & Games Advertising Business directory Build your own ad Business Review Hot Jobs Pets Drive Topeka HomeFinder ApartmentFinder Local business listings Pickard refutes testimony of government witnesses The Wamego Times, March 27, 2003, Volume 116 Number 13 by Mark Portell Wamego Times Editor William Leonard Pickard, testifying on his own behalf last week, refuted evidence and testimony of key government witnesses in the conspiracy trial in U. S. District Court, Topeka. Pickard concluded seven days of testimony last Thursday and was expected to continue testimony early this week under direct examination of his defense attorney, William Rork. Pickard, 57, and Clyde Apperson, 47, both of the San Francisco Bay area, are charged

with one count of conspiracy to manufacture and distribute more than 10 grams of the . They were arrested in early November, 2000, after leaving the former Wamego missile base with an alleged lab capable of producing more than 800 million dosage units of the cinogen. PICKARD SAID he met Gordon Todd Skinner in February of 1998, at a conference of the American Academy of Forensic Scientists in San Francisco. He said he found Skinner fascinating and extremely knowledgeable of synthetic cinogens and that he counted on the Tulsan's professed wealth and connections to help fund his (Pickard's) research projects. However, Pickard said he was duped by Skinner, the former owner of the Wamego missile base and an admitted co- conspirator in the case who cooperated with federal authorities in exchange for his own immunity. "Mr. Skinner had a constant source of cash, which I assumed was from Gardner Spring . " Pickard testified. Gardner Spring is the factory owned by

Skinner's mother at Tulsa for which he started a temporarily subsidiary in 1996, in the missile base. "He alluded to financial activities offshore, trading silver options, real estate investments, and the 100 year-old Gardner Industries complex that supplied 20 percent of the springs in the United States," Pickard said. "Initially, I was an honored guest and eventually I became a worker for Mr. Skinner." Pickard said Skinner gave him $5,000 in cash for his proposed online research website called FEDS, Future Emerging Study; through Gardner Spring, paid for his trips to the Netherlands and the Far East for research; and gave him bank drafts totalling $150,000 as start-up capital for a private online venture called Special Services Limited. After his arrest in November of 2000, Pickard said he discovered the bank drafts were counterfeit. Pickard said Skinner also claimed to know the head of millionaire Warren Buffet's Maybe Foundation and promised to present Pickard's research proposals to the foundation

for grant funding. He later learned that Skinner "led me along" about Buffet and the foundation, Pickard said. PICKARD SAID Skinner "was deeply impressed with the ayahuasca experience. " Ayahuasca is an cinogenic tea brewed from South American rain forest plants and used in conjunction with an hours-long religious ceremony that includes chanting, lighted candies, and ceremonial garb and music. "He was closely bound with a group of ayahuasca users and he had great expertise in the area of tryptamines," Pickard said. It was Skinner and Alfred Savinelli, the owner of Native Scents at Taos, N. M., and an admitted co–conspirator in the case, who discovered that materials extracted from certain grasses grown in the United States could duplicate the "ayahuasca experience," Pickard said. The two wanted to develop an industrial extraction process at Taos and supply ayahuasca to the Uniao do Vegetal (UDV) Church at Santa Fe, N. M., a branch of a Brazilian church which uses

ayahuasca in its religious ceremonies. Ayahuasca is an illegal controlled substance in the same class as because it contains dimethyltryptamine (tmd), an cinogenic under the U. S. Controlled Substances Act. In Brazil, ayahuasca is legal and is recognized as the sacrament of several Brazilian-based churches, including the UDV. In May of 1999, U. S. Customs agents seized several bottles of the brew imported from Brazil for use by members of the UDV. PICKARD REFUTED previous evidence and testimony by key government witnesses, saying the alleged manufacturing activities in Santa Fe, N. M. and in Kansas were totally related to Skinner's illegal production of ayahuasea. For example: • David Haley previously testified that John Conner (aka William Leonard Pickard) paid him $300,000 over a two- year period to sub-lease a remote Santa Fe house for what Haley later found out was a clandestine lab. Pickard said Skinner "had control" of the house, paid the $300,000 to

Haley, and used the house for his own ayahuasca production. • The glassware and lab equipment seized in the Ryder truck the night of November 6, 2000, outside the Wamego missile base were similar to materials shipped by Skinner from Tulsa to Savinelli's business in the early 1990s, to develop an industrial extraction process to produce ayahuasca at Native Scents. • After U. S. Customs agents seized several bottles of ayahuasca imported from Brazil to Santa Fe, a grand jury investigation ensued and Skinner relocated his ayahuasca lab to Kansas where he wanted to convert his missile base into "a temple for ayahuasca use and entheogen use, in general," Pickard testified. THE LAVISH marble, Mexican artwork and $100,000 speaker system Skinner had installed in the missile base were all part of the ayahuasca ceremony, Pickard said, adding that on several occasions in New Mexico and Kansas he saw Skinner prepare the cinogenic tea and that he knew of two ayahuasca sessions held in the missile base.

• Skinner's testimony about Pickard telling him someone had been killed in relation to an lab in Oregon may have been linked to an event in the summer of 1999, at Savinelli's Taos, N. M. home. "Yes, there was ... on two or three occasions there were discussions of death," Pickard testified. In the summer of 1999, Pickard said he ws in Santa Fe and received a call from Skinner. "He said 'Help,'" Pickard said. Skinner was at Savinelli's with Harvard psychiatric researcher John Halpern and all three were "in the final phases of some experiment with an ayahuasca mixture. They liked to experiment a lot," Pickeard testified. "They were conscious, but unable to walk when I arrived" Pickard said he cared for them for several days making herbal teas and talking to them. "The were in various states of extreme psychological distress. This went on for 2.5 days and then they began to recover. They were having death experiences. THE CONVERSATION turned from death to murder

conspiracies, Pickard said, and he mentioned to Skinner he knew someone in Boston who had been killed. "I was referring to someone involved in the Marquardt affair who was killed gangland style with shots to the back of his head," Pickard testified. (Marquardt was the self- taught chemist whose Boston fentanyl lab was responsible for the deaths of hundreds along the eastern seaboard. He later relocated the lab to Goddard, Kansas, where he was busted and was ultimately imprisoned in Oregon). "Mr. Skinner was obsessing rocking back and forth," Pickard said. "It was an exhausting few days. It was not unusual to find him like this. He cultivated the edge of cinogenic use." Other testimony by government witness refuted by Pickard last week: • David White, special agent with the San Francisco DEA, previously testified that on February 22, 2001, DEA agents conducted a consent search of a storage locker at Roseville, Calif., and discovered $170, 100 in cash. The locker, White

said, had been rented April 11, 1997, by Deborah Connor (aka Deborah Harlow), Pickard's first wife. Harlow gave DEA agents permission to search the locker and told them Pickard had given her the money. PICKARD TESTIFIED last week the money had been given to him by Abdul Malik Pehlwan (aka Malik Han), the primary commander of General Abdul Rashid Dostum, the Afghan warlord and heroin trafficker who later became Deputy Minister of Defense in Afghanistan. Pickard said he was Dostum's liaison to the State Department on a trip to the United States in 1997, and the money was actually financial contributions to Dostum from Afghans living in the U.S. Since Dostum couldn't legally take the case out of the U.S., his commader, Malik Han, gave it to Pickard for safekeeping. • Ralph Sorrell, a DEA task force officer who participated in the November 6, 2000 bust near Wamego, previously testified that a piece of paper seized from Pickard's briefcase that night

had a notation on the back in Pickard's handwriting: "5 kg of ET 20 million doses of ." Pickard said he wrote the note during a conference on chemical terrorism he had helped organize. Participants in the conference had learned that the terrorist who dumped serin gas in a Tokyo subway had possessed ET (ergotamine tartrate, an precursor), and creating that much could be considered an act of terrorism. THE LIST of names on the other side of the paper were the participants at the conference, Pickard testified. • Guadalupe Teniorio Matias, the Mexican artisan who did tile work for Skinner at both the Wamego and Carneiro missile bases, previously testified that in December of 1999–after working three days alone at the Carneiro base–he was awakened by two men he identified in court as Pickard and Apperson. The lab was allegedly located in the Carneiro base at the time, and the two men gave him a ride back to Wamego. Pickard said he never heard of a missile base at Carneiro or

Salina or Ellsworth. In early winter of 1999, he said, he accompanied Skinner to an unknown location "to pick up Lupe." When they arrived at their destination, Pickard testified, Skinner told him to "Go down and get Lupe and I did." • Deborah Lehman, a Menlo Park, Calif. graphic artist, previously testified she received an unsolicited call from Pickard in August of 2000, about developing websites for him. Pickard and an associate arrived at her house September 7, to discuss their proposal and gave her a thick envelope which they said con contained $5,000 in cash as a down payment. "I DIDN'T open the envelope," Lehman testified. "I didn't want to take the money. My instincts told me this could be money." Pickard testified last week that Lehman never indicated any concern over the money which, he said, came from Skinner as an investment in the commercial website proposal. "I don't think she understood our proposals," Pickard said of Lehman. Pickard said when he returned later to retrieve the cash, he walked

back to his car. He said he did not run, as Lehman testified.Login Register Contact Us | Newsletters | Archives | | Mobile | Advertise | Subscribe to the paper Classified Jobs Cars Real Estate Site Web Web Search powered by YAHOO! SEARCH Home News Sports Life Opinion Interact Multimedia Legislature Obituaries Wednesday, December 11, 2013 Jury in trial could begin deliberation soon Posted: Thursday, March 27, 2003 By By Steve Fry The Capital- Journal A defendant in an trafficking case said Wednesday that he possessed 15 forms of identity in three different names as part of a plan he had to set up an off- shore credit banking business. The multiple identification forms were found when William Leonard Pickard was arrested in November 2000. Pickard, 57, and Clyde Apperson, 47, are charged with conspiracy and possession of with intent to distribute more than 10 grams. Pickard has testified that he was en route to destroy an lab on Nov. 6, 2000, when Kansas Highway

Patrol troopers stopped his vehicle and a rental truck driven by Apperson, which was hauling the lab itself, near a converted missile silo at Wamego. Pickard was on the witness stand in U.S. District Court for nine and one-half days before stepping down Wednesday. U.S. District Judge Richard Rogers told jurors hearing the 11- week trial that they might begin deliberations in a few days. Testimony resumes today. The 15 ID cards were part of a plan to establish Special Services Limited, the off-shore business, Pickard testified Wednesday. The IDs included an Oklahoma driver's license, an international driver's permit, a British West Indies driver's license, a Great Britain personal ID card, a MasterCard credit card and a receipt for $5,000, all bearing the name "James Maxwell," a pseudonym inspired by a well-known British electrical engineer of the same name. Picard testified he used the Maxwell name to research off- shore banking. Other IDs, including a document from a doctor, cards for

the North American Hunting Club, the North American Fishing Club, a Georgia driver's license and a Visa credit card, bore the name "John Conner." Expanded coverage • Web In-Depth: Missile silos and past trial coverage Related story • Suspicious Silo: Cold War relic site of -related intrigue Video tour QuickTime: [4.8 MB] RealMedia: [T1,cable] • [56k] Windows Media: [T1,cable] • [56k] Photo gallery Take a look at missile silo images from The Capital-Journal's archives. Flash map See where missile silos are in Kansas using the interactive map. Pickard, who has testified he did research while at Harvard University and the University of California at Los Angeles, also said he meant to display the multiple IDs at proposed conferences focused on money laundering and crime and technology. He denied using the name "Bruce Edward Niomi," whom Pickard identified as a former Oklahoma legislator, which was on several documents. When troopers tried to stop him on Nov. 6,

2000, at Wamego, he didn't have his legitimate California driver's license because it was being renewed, Pickard said, adding he panicked and ran from troopers, fleeing west of Wamego several miles before taking shelter in a farmer's vehicle. "Things were pretty scary. I needed time to think it out," he testified. Pickard told jurors he wouldn't have shown a false driver's license with his photo on it if a Kansas law enforcement officer asked to see his license during a vehicle stop. Instead, he would have given his name and California driver's license number from memory. During three hours of cross-examination on Wednesday, Pickard frequently sparred with Assistant U.S. Attorney Greg Hough, complaining he hadn't finished answering one question before Hough asked another. At one point, he argued with Rogers that Hough should be forced to finish what Pickard contended was an incomplete quote. In the quote from a tape-recorded conversation on Nov. 4, 2000, Pickard told Gordon Todd Skinner

that he was to turn over the E.T., a chemical essential to manufacturing , to Pickard or "your ass is grass." "Answer the question," Rogers told Pickard, adding it wasn't Pickard's job to direct Hough how to ask questions. Skinner, a past close friend of Pickard, has been a key prosecution witness in the case. Pickard acknowledged he wanted all the E.T. before he left Wamego because he had a "possessory interest" in the chemical, which he earlier testified was linked to a clandestine lab seized in the 1990s in Goddard. Steve Fry can be reached at (785) 295-1206 or sfry@cjonline.com. Related Searches LAW_CRIME DISTRICT JUDGE PERSON COMMUNICATION AND MEETINGS (785) 295- 1206 UNIVERSITY OF CALIFORNIA AT LOS ANGELES SFRY@CJONLINE.COM ELECTRICAL ENGINEER GEORGIA DRIVER FARMER WEST INDIES DRIVER UNITED STATES CHEMICAL MASTERCARD BRITISH WEST INDIES

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Pets Drive Topeka HomeFinder ApartmentFinder Local business listings The Topeka Capital-Journal Wednesday, December 11, 2013 Suspect in trial had 15 forms of ID Posted: Wednesday, March 26, 2003 By By Steve Fry The Capital-Journal A man charged with trafficking in had 15 forms of identity in three different names when he was arrested in November 2000. He needed only one name Tuesday as he testified in U.S. District Court. When assistant U.S. Attorney Greg Hough asked William Leonard Pickard what name he preferred, Pickard, after a pause, said, "You may call me Mr. Pickard." Pickard, 57,

and Clyde Apperson, 47, are charged with conspiracy and possession of with intent to distribute more than 10 grams. Pickard has testified that he was en route to destroy an lab on Nov. 6, 2000, when Kansas Highway Patrol troopers stopped his vehicle and a rental truck driven by Apperson, which was hauling the lab itself, near a converted missile silo at Wamego. Pickard returns to the witness stand today. The trial shifted gears Tuesday after Pickard's defense attorney, William Rork, finished eight days of questioning Pickard under direct examination. During brief questioning by Apperson's defense attorney, Mark Bennett, Pickard said Apperson didn't transport a chemical essential to the production of from Chicago as alleged by an earlier witness; didn't move an lab from a Santa Fe, N.M., house; and wasn't aware there might be a lab at the Wamego site in November 2000. Expanded coverage • Web In-Depth: Missile silos and past trial coverage Related story • Suspicious Silo:

Cold War relic site of -related intrigue Video tour QuickTime: [4.8 MB] RealMedia: [T1,cable] • [56k] Windows Media: [T1,cable] • [56k] Photo gallery Take a look at missile silo images from The Capital- Journal's archives. Flash map See where missile silos are in Kansas using the interactive map. Then for two hours Tuesday, Hough peppered Pickard with rapid-fire questions during cross- examination. Many of Pickard's identification cards, including an Oklahoma driver's license, an international driver's permit, a British West Indies driver's license, a Great Britain personal ID card, a MasterCard credit card and a receipt for $5,000, bore the name "James Maxwell," whom Pickard identified as a well-known British electrical engineer. Other items, including a document from a doctor, cards for the North American Hunting Club, the North American Fishing Club, a Georgia driver's license and a Visa credit card, bore the name "John Conner." Between two questions, Pickard interjected,

"Yes, I collect identities." Pickard denied using the name of "Bruce Edward Niomi," which was on several documents. At one point, Hough piled seven cell phones on the witness table in front of Pickard. The cell phones were recovered from the car Pickard was driving when troopers stopped him on Nov. 6, 2000. Pickard also acknowledged having 19 calling cards and a pager. Pickard denied a number of accusations by prosecution witnesses Alfred Savinelli, Taos, N.M., who said Pickard purchased chemicals and lab glassware through his incense business; David Haley, a New Mexico businessman who said Pickard paid him large sums of money to rent a house for Pickard but leased in Haley's name; and Gordon Todd Skinner, a key prosecution witness originating from Tulsa, Okla. Pickard called Savinelli, Haley and Skinner part of a "hiawasca cult," referring to an cinogenic tea. Pickard denied contentions of Savinelli and Haley that he paid each man $300,000. During earlier testimony,

Pickard alternately portrayed Skinner as a good friend who treated Pickard's family well and someone who betrayed him. Pickard also denied testimony that he had accidentally dosed himself with . Pickard testified he hadn't filed an income tax form since 1993 but had made four trips to Russia, three to Afghanistan, one to Germany and five to Amsterdam, The Netherlands. Pickard said he hadn't declared as income "contributions" he said he received from Skinner. Based on records from Pickard's computer, Skinner had given him about $4,800 to buy airline tickets for two trips for Pickard and his wife and more than $15,600 in July 2000, Pickard said. The computer records also showed that Pickard paid two checks totalling $37,000 to a former wife on May 9, 2000, Pickard said. Pickard also acknowledged that he pleaded guilty in December 1987 to providing false identification while trying to obtain a passport and pleaded no contest in November 1992 to manufacture of , possession for sale of

and possession for sale of mescaline. There were a number of frosty exchanges between Pickard and Hough. At least three times, U.S. District Judge Richard Rogers told jurors to ignore remarks by Pickard, and once the judge told Hough to be "less harsh" when questioning Pickard. Hough also was told to give Pickard time to answer questions. When the court reporter recording Pickard's testimony asked him to slow down as he read a letter from Harvard University about a class he was failing, Pickard complained that reading the letter was "tedious." Steve Fry can be reached at (785) 295- 1206 or sfry@cjonline.com. Related Searches AIRLINE TICKETS ASSISTANT U.S. ATTORNEY WEST INDIES DRIVER NORTH AMERICAN HUNTING CLUB DISTRICT JUDGE CHICAGO CHEMICAL ESSENTIAL AFGHANISTAN WILLIAM RORK COURT REPORTER DRIVER NORTH AMERICAN FISHING CLUB (785) 295-1206 FUNDING NEW MEXICO KANSAS CLYDE

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 Wednesday, December 11, 2013 Suspect denies alleged actions in case Posted: Tuesday, March 25, 2003 By By Steve Fry The Capital-Journal A man charged in an trafficking case denied Monday he went to a converted missile silo at Wamego in November 2000 to set up an lab. William Leonard Pickard testified that he was en route to destroy the lab on Nov. 6, 2000, when Kansas Highway Patrol troopers pulled over his vehicle and a rental truck driven by co- defendant Clyde Apperson, which was hauling the lab itself. Pickard took the stand Monday for his eighth day of testimony in U.S. District Court. Pickard,

57, and Apperson, 47, are charged with conspiracy and possession of with intent to distribute more than 10 grams. The two were arrested in November 2000, Apperson just after he drove a truck containing the lab from the former missile site at Wamego and Pickard the next day at a farm several miles west of Wamego. Defense attorney William Rork said he expected to wrap up his questioning of his client today. Mark Bennett, Apperson's defense attorney, then assistant U.S. Attorney Greg Hough, will have opportunities to question Pickard. While being questioned by Rork, Pickard said he wasn't en route to Wamego in November 2000 to set up an lab. Pickard testified that Gordon Todd Skinner, a former friend-turned-key prosecution witness, had claimed several times he might have part of the clandestine laboratory of George Marquardt and some of Marquardt's E.T., a chemical necessary to make . Expanded coverage • Web In-Depth: Missile silos and past trial coverage Related

story • Suspicious Silo: Cold War relic site of -related intrigue Video tour QuickTime: [4.8 MB] RealMedia: [T1,cable] • [56k] Windows Media: [T1,cable] • [56k] Photo gallery Take a look at missile silo images from The Capital-Journal's archives. Flash map See where missile silos are in Kansas using the interactive map. Marquardt is an underground chemist who produced batches of fentanyl, a which killed about 300 users in the early 1990s, at his lab at Goddard, according to earlier testimony. Marquardt was convicted of conspiracy to manufacture fentanyl and sentenced to 25 years in federal prison. Users thought the , also known as "China white," was a potent form of heroin. Marquardt's name surfaced when Pickard testified he studied fentanyl while working on his master's degree at Harvard's Kennedy School of Government. Pickard told jurors that Skinner had promised many times to show him the boxes containing part of the Marquardt lab. When the two talked in a Wichita parking lot on

Nov. 3, 2000, Pickard said, Skinner told him that boxes containing some of the Marquardt lab were at the Wamego base, which Skinner had converted into a home and a spring factory. An audio recording introduced as evidence earlier in the trial had Pickard referring to "my E.T." Pickard testified that he meant he had "possessory interest" in the E.T. and the Marquardt lab because someone had given him the rights to them. "I kept trying to get the E.T. from him (Skinner)," Pickard said. Skinner wanted him to set up the lab at the converted missile base, but he declined, Pickard testified. There is only one use for the E.T., he said, and if Skinner had the chemical it was important to know that and to get it back. To this day, Pickard said, he doesn't know whether Skinner had the Marquardt lab. Pickard said he and Apperson went to the missile silo on Nov. 4, 2000, to help Skinner pack his belongings, but discovered what Pickard thought might be a -production plant, not the Marquardt lab.

Pickard said he saw a series of green military containers inside a prefabricated metal building on the Wamego site. "Inside them were white buckets that were heavily sealed," he said, adding there also were black containers holding a black liquid. Federal agents testified the white buckets contained parts of the lab. Pickard said he had to decide whether to turn in the lab or leave it at the missile silo. He and Apperson went to Topeka, where they rented a box truck, returned to the Wamego site and packed the white buckets aboard the truck. He then poured 100 gallons of the black liquid along a fence line of the base, Pickard said. "I had decided at that point to destroy this thing," Pickard testified. The two men dumped the empty black containers, which were in trash bags, in a large metal trash bin at the Pizza Hut in Wamego, Pickard said. Equipped with walkie- talkies, Pickard was driving a car and Apperson the rental truck on the outskirts of Wamego on Nov. 6, 2000, when they came to a road where they

were to turn. "This is it," Pickard told Apperson, meaning that was the turn, Pickard testified. Lights on highway patrol cruisers came on, and Pickard slowed the car before he fled. "I panicked, I ran and I ran," Pickard said. Several times on Monday, Pickard complained that portions of what he said during conversations taped by federal agents had been deleted from what jurors heard during the trial. Steve Fry can be reached at (785) 295-1206 or sfry@cjonline.com. Related Searches WILLIAM LEONARD PICKARD CLYDE APPERSON SUSPICIOUS SILO PREFABRICATED METAL BUILDING DEFENSE ATTORNEY , THEN ASSISTANT U.S. ATTORNEY LABORATORY OF GEORGE MARQUARDT PHOTO GALLERY TAKE PATROL JUDICIAL EVENT SFRY@CJONLINE.COM WEB IN- DEPTH MARK BENNETT HARVARD'S KENNEDY SCHOOL (785) 295-1206 RELIC SITE UNDERGROUND CHEMIST CHEMICAL

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SCHELLING'S RULE: HOW TO HAVE SAFER PRISONS AND LESS RECIDIVISM

"By that hidden way My guide and I did enter, to return To the fair world; and heedless of repose We climb'd, he first, I following his steps, Till on our view the beautiful lights of Heaven Dawn'd through a circular opening in the cave Thence issuing we again beheld the stars." -Dante, Inferno, Canto 34 The day David was murdered just outside my cell door, I vowed to think most carefully about how to end prison violence. David seemed worried the day of his death, his eyes distant upon some troubling horizon, but concerned reflection is not unusual in maximum-security institutions. A strapping six-foot-four, thirty-five year old concluding a ten-year sentence, he soon was to return to his supportive family in Walnut Creek, California. While disputing another inmate's

debt for a paltry sum of contraband tobacco, he suddenly was stabbed repeatedly by three Hispanic gang members in a drunken, malevolent, tattooed frenzy. Only months later I saw "Fish," a young black man who lived on the tier above me, assaulted in the yard by a rival gang. He slowly crumpled down against a chain link fence beneath the razor wire as he was beaten and kicked to death, finally moving no more. His attackers fled into the staring crowds while klaxons resounded and hundreds were forced to the ground as flash-bang grenades detonated overhead. Yet David and Fish did not have to die, if new protocols were in effect that are known to reduce community violence, gang activity, and substance abuse. Rather than providing a litany of prison horrors, it is proposed here that such needless deaths can be avoided by adopting in prisons several promising new policies in community policing and experimental courts. The Problems in Prisons: An Overview In high-security federal

and state prisons, violence is the norm. It is correlated most strongly with alcohol and use, and often instigated by gangs. Over my past decade in penitentiaries, it has not been uncommon to encounter stabbing victims sitting in doorways, hiding in bloody urinals, running frantically across yards as attackers encircled them, or lying stunned on floors as their wounds bled. Within such brutish environments, both staff and inmates are exposed to severe and endless hazards, while institutional responses to violent events remain only partially adequate. Triaging the Knife and Fist: "Nothing Works" These problems are endemic to all prison settings, and they are formidable. Authorities' attempts to control violence and substance abuse are highly variable and subject to failure; in the absence of rigorous statistical research on outcomes there is little good data for penologists to consider. Although gang memberships are scrutinized by special investigative units, responses of institutional staff tend to be only

reactive. By contrast, inmates develop an intuitive sense of impending assaults, so that before an outbreak of violence one sees "grouping": men lingering and racially segregating, huddling in twos or threes and speaking little or not at all. Prisoners reflexively herald the attack like herds of gazelles alerting, sensing collectively the presence of predators. As the knifing commences, someone may announce, "There it is!" The inmate population freezes, looking on somberly at yet another small matter of life and death. Prison staff are well-trained to respond rapidly to violence. In the federal system, one routinely observes the entirety of a compound's staff - guards, senior officials, teachers, secretaries - literally running to the aid of other staff or inmates in a show of cohesive, insurmountable force. After the participants are immobilized, both assailants and victims then are confined within Special Housing Units SHUs - prisons within prisons - subjected to their enervating hardships, and

isolated for weeks or months until every social and physical aspect of the assault is understood by investigative specialists. After the federal system experienced eighteen deaths within two years, including those of several correctional officers, the Bureau of Prisons B OP introduced a remedy for the more heinous violators. Rather than the usual procedure of transferring assailants to new institutions, thus displacing the problem but not resolving it, the BOP began to aggregate gang leaderships at a dedicated prison, the Special Management Unit SMU . Inmates at SMU are locked down twenty-four hours a day until violent behavior is renounced; individuals begin a "step down" program over years, eventually returning to a normal population, or not. While the outcome for the federal system has been beneficial in that gang leaderships are dismantled, violent gang recruits continue to replace one another in a process akin to arrested street-corner crack dealers whose shoes are filled quickly by those aspiring

to the lifestyle. The federal response to prison violence, while well-designed in some respects, is not only resource intensive, but suffers from a lack of good science and policy analysis. Unaware of sound new alternatives, institutions subject entire inmate populations to the punishment of debilitating lockdowns and searches in an effort to correct the few. With only a fraction of inmates who are frequent management problems, there are more effective procedures for reducing violence and targeting the primary offenders. "Nothing works" still remains the conventional wisdom among penologists1. Even with the advent of SMUs, prison yards continue to pose extreme threats for inmates and staff as gang leaderships and members are replaced and alcohol and use remain endemic. How can these problems be solved? It is time to adapt to prisons the few novel strategies that in several communities actually do work. All are applications of game theory called "dynamic concentration." New

Community Solutions Can Be Applied to Prisons: Dynamic Concentration, H.O.P.E., South Dakota's 24/7 Sobriety Program, and High Point Since the writings of Becarria in the 18th Century, considered the foundation of criminology, it has been known that the efficacy of deterrence is based on swiftness, certainty and severity, with severity the least important factor2. The penological literature recently has benefited from the seminal analyses by criminologist Mark Kleiman of UCLA of both Becarria's conclusions and the few successful community programs, identifying the underlying mechanism shared by these workable approaches to resolving probation recidivism, flagrant markets, drunk driving, and - more broadly - a spectrum of errant behavior3. Kleiman has noted that trying to control everything and everyone - the "zero tolerance" approach most often cited in enforcement and prison management - leads to delayed responses, system overload, and ineffective,

costly programs. Observing the inefficiencies and expense of "zero tolerance" regimes, Kleiman has shown that the alternative of swiftness and certainty in place of severity, together with "dynamic concentration" of resources through direct communication of deterrent threats to offenders, is a more effective, cheaper, short- and long-term remedy. Schelling's Rule and Dynamic Concentration A basis for the model of dynamic concentration is the work of economist and game theorist Thomas Schelling, who concluded at RAND during Soviet detente that "effective deterrent threats are never carried out"4. The principles of dynamic concentration and game theory demonstrates that in any group where most individuals are well- behaved, enforcement can concentrate on the few miscreants, in contrast to the typical solutions applied to entire populations of offenders wherein the amount of enforcement to control bad behavior inevitably leads to swamping of enforcement and

resources, and delayed, sporadic punishment5. Put another way, among those who always get punished for any infraction - drinking, use, failure to appear for court hearings - violation rates go down. Among those who never get punished, violation rates go up. Dynamic concentration means that adding extra enforcement effort to a small set of high-violators - even, it is proposed here, in prisons - results in a low- violation equilibrium among larger groups while requiring less enforcement capacity. That means fewer violations and fewer sanctions in the long- term. As Kleiman has observed in assessing successful applications in courts, "to the extent dynamic concentration reduces offending rates while unpunished violations increase them, dynamic concentration turns out to be the deterrent version of the Miracle of the Loaves and Fishes." Dynamic concentration - moving from a bad, high-violation equilibrium to a good, lowviolation equilibrium - also leads to a reduction in

resources needed to tip the equilibrium in the favorable direction, freeing up resources to address new problems. Indeed, varieties of dynamic concentration with maximal benefits from minimal resources now are being employed at increasing numbers of courts, probation settings and drunk driving reduction programs throughout the United States. In a paper in the Proceedings of the National Academy of Sciences, Kleiman and Beau Kilmer, an economist and researcher at RAND, have indicated that game theory and the dynamic concentration model can be applied to many categories of errant behavior6. Thus, it is proposed that a variation of dynamic concentration may also help resolve seemingly intractable prison gang violence and alcoholism, using similar methods of dynamic concentration and Schelling's Rule that have resulted in a few startlingly successful community programs: H.O.P.E., South Dakota's 24/7 Sobriety Program, and High Point. The H.O.P.E.

Program for Probationers Can Be Adopted by Prisons Judge Alm in Hawaii was confronted by an epidemic of methamphetamine abuse, a crowded court docket, and high rates of recidivism among probationers. Typically, in all states, probationers accumulate numerous "dirties," or failed tests, until they are violated and receive long prison sentences. Probationers lost their jobs and families, and the prisons became filled with recidivists. Judge Alm initiated a new program called H.O.P.E. "Hawaii Opportunity Probation with Enforcement" , streamlined the court process, and replaced the practice of following multiple violations by long prison terms with a new approach: swift and certain sanctions - in most instances a few days in jail - for each and every failed test or missed appointment7. Probationers kept their jobs, supported their families, and - in an unanticipated outcome - spontaneously stopped using methamphetamine. The experiment of assuring a brief stay in jail for every failed

urinalysis or absence from a hearing significantly reduced methamphetamine use, even among probationers who were repeated recidivists and chronically failed tests under the old practice of lengthy prison terms after multiple violations. This unusual outcome was predicted by dynamic concentration, as probationers moved from a high-violation equilibrium to a low-violation equilibrium through swift, certain and short-term sanctions. Schelling's Rule began to apply as probationers became aware they would be jailed for every infraction: "effective deterrent threats are never carried out." H.O.P.E. is indisputably fair. Probationers realize their incarceration depends on their own behavior rather than the caprice of a probation officer, a realization that is essential to breaking bad habits8. H.O.P.E. sites have begun to appear in several states, and are being evaluated by public policy researcher Angela Hawken. In that the dynamic concentration analysis of Kleiman and Kilmer observed it may

be applied to diverse forms of behavior, how may it be employed to make prisons safer? Applying South Dakota's 24/7 Sobriety Program to Prisons An unusually successful program incorporating elements of dynamic concentration is South Dakota's 24/7 Sobriety Program. In South Dakota, those with drunk driving violations are required to report twice daily to a police station for breathalyzer testing, rather than facing mandatory prison terms after accumulating multiple drunk driving citations. The results, as with H.O.P.E., are encouraging9. H.O.P.E. and South Dakota's program should be applied to prison populations. In the community, three-quarters of those addicted to substances are addicted to one intoxicant: alcohol, which also accounts for most -related crime. In the prison system, the link between alcoholism, disease, and violence is even stronger. Inmates routinely manufacture and consume alcohol in the form of "hooch," crudely fermented solutions of stolen sugar, potatoes, rice, tomato

paste, and even carbonated sodas degassed and evaporated in microwaves. Rudimentary stills using plastic sheets are encountered. Yet among violent inmates and prison gangs, alcohol use is closely correlated with assaults, injuries and deaths, and multiple lockdowns of institutions for protracted periods. In many prisons, breathalyzers are administered in an informal and random manner, or through the ad hoc solicitation of "volunteers." Seized alcohol may be discarded with no sanctions until repeated infractions lead to a lengthy term in the Special Housing Unit, a process similar to probation violators in Hawaii before Judge Alm's program. Yet, a new approach being evaluated at an Arizona federal prison indicates that dynamic concentration may be employed to reduce alcohol abuse in all state and federal prisons. After experiencing repeated incidents of alcohol-related violence and lockdowns, and upon becoming aware of the value of swift, certain sanctions and non- random testing, an

Arizona warden began a "yellow card" program based in part on South Dakota's 24/7 Sobriety Program and dynamic concentration10. Inmates with histories of alcohol infractions were issued "yellow cards" and required to report three times each day for breathalyzer testing, while those failing the test or not appearing were immediately sanctioned. Yellow card inmates were summoned to testing through a public address system, reinforcing inmates' perception of the certainty of sanctions. The results, as with H.O.P.E., moved the prison from frequent violence and alcohol use the high-violation equilibrium to a relatively peaceful prison compound the low-violation equilibrium . Both institutional staff and inmates anecdotally have reported that the incidence of violence declined substantively10. This application of dynamic concentration and the H.O.P.E. and South Dakota protocols is worthy of statistical study by external researchers approved through the Bureau of Prison's Office of Research and

Evaluation. The Arizona "yellow card" program may be refined further. It has been proposed that in the community a selective prohibition of drinking of those previously convicted of alcohol-related offenses would have to be enforced by regulations on sellers rather than on buyers11. Applying dynamic concentration resources to prison alcohol manufacturers more than consumers would lead to greater efficiency of the program, while minimizing institutional burdens from assigning staff to conduct frequent alcohol testing. Nevertheless, the personnel hours required to test all prior alcohol offenders - those with yellow cards - constitute only a fraction of the staff burden from institutional searches and lockdowns following episodes of alcohol-mediated violence. Continued success in the H.O.P.E., South Dakota, or Arizona prison programs requires sustained, certain sanctions, however. Otherwise, the low-violation equilibrium will revert to high violations as subjects risk being sanctioned. The

More Difficult Problem of Opiates and Psychotropics Oxycontin and other opiates licitly prescribed for medical conditions are diverted in prisons and abused by addicts and newly initiated inmates, as are psychotropics including Effexor, Zoloft, Welbutrin and Neurotin. Jails and prisons largely have replaced psychiatric hospitals as housing for the mentally ill12, so that inmates have a high incidence of character disorders and "Axis I" mental health problems: schizophrenia, depression, bipolar disorder, and aggression. Because some inmates are skilled at mimicking medical or psychiatric problems, or over report real maladies to secure - even feigning suicide gestures - medical staff inadvertently may over prescribe medication. Diversion is difficult to monitor: even crushed tablets whose consumption is observed by staff can be mouthed and resold for injection or nasal insufflation. Diverted opiates and psychotropics are expensive for addicts, and prison debts significantly contribute to violence. To resolve

this problem, prisons could adopt two protocols: inmates with a history of abuse could be included in a weekly yellow card program requiring urinalysis, and - more effectively - problematic medications could be distributed not in pill form, but as tamperproof skin patches13. Kilmer has proposed remote electronic alcohol and other testing for probationers, and such advances may be particularly useful for the recalcitrant prisoner14. Prior heroin users can be tested through a yellow card procedure as well. Typically smuggled in through visiting rooms, heroin is endemic to many facilities. In one instance, a twenty-eight year old male died from ingestion of balloons of heroin during a visit, only one week before his release date. Disempowering Prison Gangs through the High Point Solution Gangs are ethnocentric, with a single BOP statistical study comparing the and violence propensities of white supremacist gangs such as the Aryan Brotherhood, Dirty

White Boys, Nazi Low Riders, Skinheads and motorcycle gangs including the Hells Angels and Mongols. Hispanic gangs including La Eme, Tex- Mex, and the Border Brothers were reviewed, as well as black gangs including Bloods, Crips and Gangster Disciples. Prison gangs are symbiotic with those in the community15. Prison yards essentially revert to tribal societies warring for dominance and control of , alcohol and gambling revenues. Directed by their "shot callers," gang "enforcers" administer beatings or "disciplinaries" to their own members for failing to carry out assaults, while also extorting the unaffiliated through "taxes." An inmate's age, ethnicity, background or behavior do not deter the prospect of violence. I no longer count the attacks on victims, including the illiterate, elderly or those in wheelchairs or on walkers. Blood trails from victims require dedicated inmate clean-up crews who scrub sidewalks beneath stars engraved into prison walls from

the sharpening of homemade knives. The High Point Experiment The community of High Point, North Carolina was oppressed by burgeoning street corner crack sales bazaars, increasing related crime and violence, and diminishing property values. The local court and probation systems were overwhelmed by processing arrests even as new dealers replaced those who were incarcerated. After lengthy and contentious community meetings, the High Point police department, supported by community leaders and advised by David Kennedy - then a Fellow in Criminal Justice Policy and Management at Harvard's Kennedy School of Government and now a professor of John Jay College of Criminal Justice - created a social experiment whereby street dealers were identified by the usual surveillance methods and buys were made until evidence was gathered for significant prison terms. Surprisingly, no one was arrested16. Rather, the police went to the homes of dealers and invited them to a meeting,

where they were shown three-ring binders and films of their felonies sufficient for conviction and years in prison. A few of the more heinous "bad actors" were publicly dispatched to jail and prison. The others, the "junior varsity" as described by Kleiman, were instructed to stop trafficking and given the alternatives of community support, job opportunities, tattoo removal, and dental work. Aware that the "bad actors" met severe penalties, the others simply quit. Instead of the arrest of one dealer after another only to have them replaced, the experiment yielded a different outcome: all dealers simultaneously stopped trafficking. More than five years later, wholesale crack sales have not resurfaced in High Point, North Carolina. The High Point experiment is being replicated in other locations. High Point is an example of focused and directly communicated deterrent threats. Characterized by David Kennedy as "pulling levers" in urban policing, it is another example of Schelling's Rule: because

the threat was credible, it did not need to be carried out. Applying High Point, Dynamic Concentration and Schelling's Rule to Prison Gangs Prison gangs and their assaults, extortion and sales are constantly monitored by intensive surveillance, cell searches and debriefing of gang dropouts. As in High Point, not only the primary bad actors but the "junior varsity" are easily identified and potential cases developed. Employing the High Point model, prison officials and investigative staff can collect gang members together, provide audio/video surveillance and reports of criminal activity adequate for indictments, and - after visibly removing targeted gang leaders to SMU programs - the "junior varsity" or gang prospects and affiliates can be instructed to cease activity or face severe sanctions or prosecution based on already acquired evidence. Alternatives to gangs can be provided for dropouts: anger/violence counseling, classes and the option to transfer to safer institutions.

Former gang members can be challenged to physical competitions or boot camp disciplines requiring early rising, abstinence, group exercise, and awards for progress. Those failing to stop gang activity can be listed for SMU programs or subjected to Special Housing Unit alternatives. Schelling's Rule functions across errant behaviors, so prisons are likely to experience a significant reduction in gang activity without heavy demands on institutional resources, as former gang members elect more positive lifestyles. Changing Inmate Attitudes: Project Ceasefire, the Good Behavior Game, Therapeutic Communities and Behavioral Segregation Project Ceasefire, a small community program that addresses gang members' attitudes towards violence, has resulted in a fifty per cent reduction in the homicide rate in target neighborhoods17. Ceasefire procedures can be adapted to prison settings. In that inmates on average have a ninth grade educational level, the highly effective

middle school "Good Behavior Game" also may be used to challenge prison populations, dividing inmates into teams that compete for rewards based on conduct18. The federal system has several Therapeutic Communities TCs where inmates self- select for better conditions and undergo group therapy. Although studies claiming benefits from TCs are flawed due to self-selection bias, forms of behavioral segregation are essential to safer prisons. Other than aggregating the violent in SMUs, BOP has established several specialized institutions to house sex offenders, gang dropouts, and other "hard-to-place" inmates, creating a few gang-free safety zones that are far less threatening than behaviorally mixed populations. Only New Remedies Lead to New Outcomes There are 600,000 prison returnees annually, and two-thirds of those released are back within three years19. Anything that increases licit opportunity, self- command, and informal social controls reduces criminal behavior20. Kleiman

has proposed changes to reduce recidivism, listing them in descending order of likelihood for implementation: the more improbable in the short- term are categorized under the heading "A Bridge Too Far"21. To that list are added the following: Sentence Reductions for Ideas that Benefit the Government and the Community Incentives can be provided in the form of sentence reductions for developing new approaches to prison, government or community problems. Although sentence reductions now are permitted only for cooperation leading to the conviction of others, the BOP Director has personal authority to reduce sentences on various grounds. This authority is underused but can be employed to encourage inmates to contribute actionable ideas and programs benefiting society. The BOP's authority could grant reductions not only for policy changes but for exceptional rehabilitation or educational accomplishments. Many prisoners now mired in hopeless pursuits would become actively

engaged and goal directed toward positive outcomes. Housing Aged or Terminally Ill Prisoners is Counterproductive Older inmates who are incarcerated long after the age peak of criminal activity are particularly vulnerable to gang violence and extortion. Recognizing the cost of medical treatment for an aging population, BOP has created a small test program in one facility to expedite the release of elderly prisoners. This program can be expanded to include all prisoners over 65, those with serious disabilities, and the mounting number of inmates with sentences of Life Without Parole LWOP . BOP's compassionate release system is designed to return terminally ill inmates to families, but is rarely used, so that even inmates who clearly pose no threat to the community in effect confront a death sentence. As a volunteer medical aide in one prison, I encountered inmates with only weeks to live being rejected for compassionate release. Rather than being an implacable and insurmountable

hurdle, the compassionate release system should function for those non- violent inmates who are severely ill or aged to return to their families. Education, Training and Incentives Very small monetary or voucher rewards have been observed to reduce addictive behavior. Rewards for abstinence or educational accomplishments may deter gambling and alcoholism, and be less costly than controlling violence through lockdowns. General inmate populations experience - as punishment for the infractions of a few - the continual attrition of privileges. Good behavior, in contrast, could be rewarded, aggregating inmates who are not management problems into settings with longer recreational hours and other incentives, while segregating non-compliant inmates into disciplinary barracks and thereby making security monitoring more efficient and less costly. Prisons are encouraged to adopt free technologies for online coursework and certificates, including MIT's EdX and Stanford's

Coursera. Learning Deportment Prisons are painfully noisy places for staff and most inmates, increasing stress, racial tensions, use and violence. Policies against loudness are never enforced. Sanctions should be applied for constant shouting or obscenities, so that community and workplace norms may be learned before release. Decibel meters that switch off televisions if noise limits are exceeded by inmates would be a quick, inexpensive and effective remedy. Permit Personal Electronics Emulating some state prisons, BOP has made email available to all inmates, enhancing investigative surveillance and even providing economic benefits for facilities. MP-3 players recently have been permitted. These programs can be expanded to include e-book readers, reducing the costs of inmate libraries, and substituting education for more deleterious pursuits. The limits on personal electronics can be suspended in part to allow laptop computers or tablets; educational

games and a sanitized form of Internet access would redirect habitual prisoner activities away from gambling and chronic, passive television viewing while increasing inmates' capacities to function in the community upon release. Open Institutions to Researchers Although the federal system benefits from BOP's Office of Research and Evaluation ORE , which reviews research proposals concerning prisons, the ORE process can be streamlined. Lowering barriers to inquiry from graduate students, criminal justice departments and research institutions such as RAND would stimulate penological reform, resulting in better outcomes, lower costs, and more rapid innovation. The prison system is long overdue for extensive examination by behavioral scientists, economists and policy analysts. Rethink Home Confinement for Non-Violent Offenders The majority of non- violent offenders can be sentenced to forms of home confinement, where they may be closely monitored while employed and supporting their

families, thus substantively reducing the prison population and moderating the aggregate damage to children and relatives from a parent's incarceration. The High Point program can be modified to ensure prison terms for non-compliance or flight, while a variant of H.O.P.E. can reduce and alcohol violations. Expand Volunteerism In a poignant scene at an Arizona women's prison, inmates knit dolls for the traumatized children of incarcerated illegal immigrants. Border Patrol officers now keep the dolls in trunks of investigative vehicles, to be provided to children after the arrests of immigrant groups; the dolls have comforted children found in the desert next to their dead parents. Known as RAISE Retirees Available Inmates Seeking Education , the program originated with Mrs. Jan Riding, who also hosts prison writing circles with University of Arizona professor emeritus Richard Shelton and other noted authors and poets. Expansion of RAISE-type programs in prisons can reduce

costs of education, provide role models for inmates returning to the community, increase what Thomas Schelling describes as self-command and rational choice, and open dialogue between inmates, prison officials and community members on preventing recidivism. RAISE is a clearly valuable, eminently practical solution to understaffing and rehabilitation. Yet little has changed, from the prisoner's viewpoint, since Arabist T.E. Lawrence in 1918 observed of his confinement, "There seemed a certainty in degradation"22. However, if these new policies are applied to the long moribund methods of incarceration, confrontation with the criminal justice system can become, for many, the first step to freedom. *** The author is a graduate of the Kennedy School of Government at Harvard, and is a former research associate in neurobiology at Harvard Medical School and policy fellow with the Interfaculty Initiative on and Addictions under Harvard's Program on Mind, Brain and Behavior. He is incarcerated

for life at a maximum security federal penitentiary. He may be reached through the website http://www.freeleonardpickard.org. September 27, 2012 This paper was prepared as a submission for the Yale Law Journal prison writing project. The efforts of Barth Beresford in its preparation are gratefully acknowledged. References: 1. Cook, Phillip J. "Punishment and Crime: A Critique of Current Findings Concerning the Preventative Effects of Punishment." Law and Contemporary Problems, 41:1, 164- 204 1977. 2. Becarria, Cesare. "Del delitti e dele pene" "On Crimes and Punishments" , 1764. translated with notes and introduction by David Young. Hackett, Indianapolis 1986. 3. Kleiman, Mark. When Brute Force Fails: How to Have Less Crime and Less Punishment. Princeton University Press 2009. 4. Thomas C. Schelling. Choice and Consequence: Perspectives of an Errant Economist. Harvard University Press 1984. 5. Kleiman, Mark. "Enforcement Swamping: A

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Journal of Child Psychology and Psychiatry 35: 259-81 1994. 19. Travis, Jeremy. "But They All Come Back: Facing the Challenges of Prisoner Re- Entry," Urban Institute Press, Washington, D.C. 2005. 20. Schelling, Thomas C. "Self-Command in Practice, in Policy and Theory of Rational Choice," American Economic Review 74: 1- 11 1988. 21. Kleiman, Mark. Brute Force op. cit. 22. Lawrence, T.E. The Seven Pillars of Wisdom. CIII. ShareThis Copy and Paste - See more at: http://freeleonardpickard.org/safer-prisons/index.html#sthash.Nbx3ND4x.dpufThe following appeals and district court motions are pending: 9th Circuit: July 27, 2011: The 9th Circuit REVERSED AND REMANDED the district court denial of a FOIA complaint for Skinner's records. See 9th Circuit decision in Pickard v. DOJ, 653 F.3d 782 (9th Cir. July 27, 2011)("Pickard I"). 10th Circuit: March 21, 2011: Motion to remand for fraud upon the court due to prosecutor's affirmative denial to the district court that no agency other than DEA

participated in the investigation. This motion was filed after DOJ through FOIA revealed that the investigation was a multiagency OCDETF and HIDTA investigation (see DEA and DOJ FOIA requests). Oral argument set for January 20, 2012 after Government indicated it was "not prepared" to respond to the motion. June 18, 2012: The Tenth Circuit issued an opinion stating, "We cannot accept the proposition that the government has a free pass to deceive a habeas court into denying discovery just because it similarly deceived the trial court [] We doubt that the governing procedural rules permit the government to gain such an advantage by its own fraudulent conduct." The Tenth Circuit remanded the Kansas case to the district court with instructions to consider Defendants' claim that the "prosecutor's false statement improperly prevented them from obtaining relevant discovery in the 2255 proceedings." 2012: Opening brief filed requesting that Gordon Todd Skinner's

Confidential Informant File (CI File) containing the "risk assessment" (RA file) - sealed in district court at trial in 2003 - be unsealed and made available to the public due to a. the First Amendment and common law right to access to these records; b. Skinner's file already being provided to defense counsel; c. the issue of inauthenticity of the "risk assessment" (see Pickard v. DOJ in Arizona, "Pickard II" infra); d. the need to prevent spoliation or alteration of these exhibits by the government; and e. the 9th Circuit decision in Pickard v. DOJ, 653 F.3d 782 (9th Cir. July 27, 2011)("Pickard I") wherein it was decided that Skinner has no further privacy interests due to his official confirmation as an informant by DEA. May 7, 2013: Oral argument on this date before Tenth Circuit in Denver, over objection of the Government, regarding the motion to unseal Gordon Todd Skinner's sealed "CI File" in district court, consisting of a.) a "Risk Assessment"; b.) two Quarterly Reports dated January 19, 2001 and March 31, 2001

respectively; and c.) a Deactivation Report dated June 27, 2001. District Court (Kansas): June 14, 2011: Notice of prosecutor's and agent's violation of F.R.Civ.P. Rule 11(b) regarding lack of evidentiary support for the authenticity of the "risk assessment" sealed by the district court at trial. No response by the Government. September 7, 2011: Second notice (revised) of prosecutor's and agent's violation of F.R.Civ.P. Rule 11(b) regarding lack of evidentiary support or the authenticity of the "risk assessment" sealed by the district court at trial. No response by the Government. 2012: Motion for evidentiary hearing was filed on the issue of fraud upon the district court concerning the prosecutor's deception that only DEA was involved in the investigation, whereas afterward DOJ and FBI through FOIA confirmed the investigation was a multiagency OCDETF and HIDTA investigation (See June 18, 2012 remand on this issue by the Tenth Circuit, stating "We cannot accept the proposition that

the government has a free pass to deceive a habeas court just because it similarly deceived the trial court"). November 5, 2012: Rule 60(b) Motion filed concerning the Government's additional fraud on the district court on remand by submitting to the district court an affidavit from DEA Agent Karl Nichols describing OCDETF member agencies undisclosed at trial and falsely asserting that member agencies participation was "minimal." (Cf. United States v. Aileman, 986 F.Supp. 1228, 1276 (N.D. Cal. 1997), stating DEA's contention that OCDETF member agencies participation was "minimal" was "false"). The Government failed to contest this motion. March 21, 2013: Motion for Judicial Notice of the district's court's sealed "CI File" of Skinner, consisting of a.) an undated, unsigned "Risk Assessment"; b.) two Quarterly Reports dated January 19, 2001 and March 30, 2001 respectively; and c.) a Deactivation Report dated June 27, 2001. District Court (Northern District of California): December 14, 2011: The

9th Circuits reversal of Pickard v. DOJ is now pending in district court in San Francisco, awaiting the Government's release of a Vaughn Index (see Pickard v. DOJ, fn 2) ("Pickard 1") of all DEA records on informant Gordon Todd Skinner. 2012: On remand from the 9th Circuit, DEA attempted to seal its Vaughn Index of Gordon Todd Skinner's DEA records - the first effort of its kind in a FOIA case. DEA's motion was denied by the district court, and DEA was ordered to make public a Vaughn index of each document or portion thereof. 2012: DEA then attempted not to file a detailed Vaughn index, but a generalized affidavit. September 28, 2012: DEA was given five days to provide Skinner's records, or be held in contempt of court. October 3, 2012: DEA produced a partial Vaughn Index of Gordon Todd Skinner's DEA records, but the index was non-compliant with 9th Circuit standards. District Court (Arizona): August 9, 2011: This proceeding, also entitled Pickard v. DOJ, 4:11-cv- 004420DCB) (D.

Arizona)("Pickard II") concerns a FOIA request for "Sec. 6612.13" of the DEA Agent's Manual, cited by the Government as the basis for Gordon Todd Skinner's "risk assessment" sealed by the district court in Kansas. [NB: there is no "Sec. 6612.13" in the DEA Agent's Manual prior to June 28, 2001 during the time Skinner was activated, utilized and deactivated as an informant]. August 18, 2011: Motion to amend complaint (granted) to include as exhibit DEA FOIA release of July 1, 2011 confirming that "Sec. 6612.13" did not exist in the DEA Agent's Manual at the time of Skinner's purported "risk assessment". March 20, 2013: Discovery was conducted through interrogatories and requests for admissions submitted to DEA and responded to by William C. Little, Esq. Office of Chief Counsel, DEA Administrative Law Section. DEA affidavits indicate that "Risk Assessments" did not exist during the period of Skinner's utilization as an informant. A cross-motion for summary judgment was filed (3/20/13) to

determine how Agent Nichols prepared a "Risk Assessment" prior to its first appearance in the DEA Agents Manual and in the absence of any interim policy or directives to field offices, and in an effort to resolve the issue of authenticity of the "Risk Assessment" sealed in the Kansas trial. Pending FOIA Requests: See list of FOIA request ultimately to be litigated in federal court. DEA DOJ DHS EOUSA FBI IRS ONDCP Attorneys, Defendants and Public Interest Groups are invited to contact us regarding these appeals and motions.DOJ FOIA Requests March 8, 2009 Req. No. CRM-2009-00353-P Request for Investigation Initiation Forms (IIF) of OCDETF Operation White Rabbit and Operation Flashback, specifically: "1. Any and all records pertaining to the undersigned; 2. the OCDETF application and proposal for the OCDETF investigations involving the undersigned, viz. DEA SEO "WHITE RABBIT" and DEA SEP-581 "FLASHBACK"; 3. the identities of the

participating agencies in the OCDETF investigations are specifically requested; 4. a referral of records originating from participating and other agencies may be required for their direct response to the requester. In this event, a notification of the referrals is requested." Status: DOJ on July 17, 2009 located a "Status Report" of Operation White Rabbit East (2 pp.) and other records "which originated in the office of the U.S. Attorney for the District of Kansas," and referred the other records to EOUSA (EOUSA 0902355 -R). On August 28, 2009 EOUSA released 1 page in full, 2 pages redacted in part, and 89 pages withheld in full. EOUSA stated "IRS was involved" as participating agency. [NB: The agencies joining after initiation of Operation White Rabbit remain unknown.] On March 5, 2009 EOUSA released a "supplemental reply" of two pages redacted in part. Withholding of 89 pages appealed to DOJ/OEO (Appeal No. 09-2784). On March 10, 2009 DOJ/OEO denied appeal.

EOUSA supplemental reply also appealed. On May 25, 2010, DOJ/OIP denied appeal. No records pertaining to Operation Flashback were provided. June 25, 2009 Req. No. CRM-200900496F Request for DOJ/CD records on OCDETF Operation White Rabbit East (WC-KS-0068)) and identification of participating agencies. Status: On July 21, 2009 DOJ/CD responded and assigned tracking number. On August 28, 2009 DOJ/CD stated "We have conducted a search of the appropriate indices to Criminal Division records and have located no records responsive to your request." On September 1, 2009 a supplemental letter was mailed to DOJ/CD stating: "1.) Although your search of the indices located no record of Operation White Rabbit East (WC-KS-0068), this OCDETF operation and number - indicating a Kansas investigation in the West Central OCDETF region - were recorded in your previous release of several Criminal Division records in response to Request Number CRM-

200900353F (see your undated letter and the items 1 and 2 attached) for records concerning Operation White Rabbit. 2.) In your letter, you stated that records were located that originated in the District of Kansas; and that the records were referred to the EOUSA for a direct determination; 3.) A response has been received from the EOUSA dated August 28, 2009 regarding the referred records from DOJ FOI/PA OEO (EOUSA Request Number 09-2355-R, attached). The EOUSA released 1 page in full, 2 pages in part, and 89 pages were withheld in full. The 92 pages from EOUSA reasonably were the same records referred by your office - and originating from the Kansas USAO - in response to the request for records on Operation White Rabbit (CRM-200900353P). 5.) However, your letter of August 28, 2009 (CRM-200900496F) states that DOJ has no records on Operation White Rabbit East (WC-KS- 0068), suggesting that the DOJ records referred to EOUSA do not involve White Rabbit East (as

noted in your first letter, "originating from the District of Kansas"). You may wish to search again under the number WC- KS- 0068. Hence, prior to any appeal, would you please clarify whether the records referred by your office to EOUSA concerned a.) OCDETF Operation White Rabbit East (WC-KS-68); or b.) Operation White Rabbit (a related investigation in the Pacific OCDETF region, Northern District of California)." DOJ/CD did not respond to this letter. Hence, on October 15, 2009, the matter was appeal to DOJ/OIP. On November 17, 2009 DOJ/OIP assigned Appeal No. 2010- 0423. On February 23, 2010 DOJ/OIP denied the appeal, stating "the Office of Information Policy must receive your appeal within 60 days of the date of the letter denying your request.'] Your letter attempting to appeal was dated October 15, 2009, and was received by this Office on November 6, 2009, ten days after the regulatory deadline. Therefore (DOJ/CD) is closing your appeal file due to

your failure to timely appeal." August 14, 2009 OJP FOIA Req. No. 09-00374 Request for DOJ Bureau of Justice Assistance (BJA) records of DOJ Regional Information Sharing System (RISS)), specifically: "1. Any and all records - but narrowed to the time period of 1 January 1997 through 31 January 2004 - in which the undersigned is the subject of interest or only mentioned, and resulting from a query of all RISS databases, the regional RISS centers and other RISS systems, and including but not limited to the following: a. printouts of the query screen displays and the search results obtained, including all pointer indices for all government databases showing "hits" on records maintained by DOJ and any other federal, state and local government agencies (OGAs); b. printouts of all such RISSNET pointer indices and query/results displays, including but not limited to RISSNET indices of records originating from the U.S. Attorneys Offices (USAO), DOJ Criminal Division, National

Pointer Index (NDPIX), FBI Law Enforcement Online (LEO), FBI National Data Exchange (NDex), EPIC Clandestine Laboratory Seizure System (CLSS), and - in this instance - the Kansas and California state law enforcement systems and the Las Vegas Metropolitan Police Department systems; c. printouts of all records available on RISSNet, RISSIntel, and all specialized criminal intelligence databases, including analytical products, deconfliction reports, records from the MidWest and Northern California HIDTAs and their Case Management Systems, and all other HIDTA and non- HIDTA indices and databases linked to RISSNET; d. printouts of all electronic communications, email, and any other records transmitted through RISSNET from any HIDTA Investigative Support Center (ISC) or any federal, state or local government agency or system; e. printouts of all other references in the RISS system or on RISSNET, including RISSLeads and RISSSearch; f. records of a specific HIDTA

investigation concerning the undersigned (see attached DOJ/CD release of records, in response to FOIA Request Number CRM-200900353P, confirming a MidWest HIDTA investigation initiated on November 8, 2000 regarding USAO Number 2000R00910 and Docket Number 00-40104-01/02-R)(See P. 1 of OCEDTF Status Report)." Status: DOJ/BJA responded that "The records you seek are maintained outside this Office and our staff has not be able to determine whether, or how many, records exist in response to our request " and requesting additional time to comply. On November 18, 2009 the DOJ/OJP Office of General Counsel replied that "The Office of Justice Programs (OJP) has conducted a search of its records and has determined that the documents requested are not under the purview of BJA or OJP, and none of the requested documents are available through BJA. The search for these documents can be conducted by any RISS access office, but the requirements under RISS Policy, the author

agency, and guidelines provide for dissemination under 28 C.F.R. Part 23 is that information obtained through these searches are for investigative purposes and prohibits sharing of this information to others for non-investigative purposes. To obtain this information, a request would have to be directed to the RISS, the regional RISS Centers, and to each and every agency who generated the record since it is the sole property of that agency" and providing the address for RISS as "Institute for Intergovernmental Research, P.O. Box 12729, Tallahassee, Florida 32317-2729." [NB: As suggested by DOJ/BJA, similar requests were made to each and every RISS Center, and to the Institute for Intergovernmental Research. No responses were received.] September 3, 2009 Req. No. CRM-200900353P Request for OCDETF Investigation Initiation Form, Indictment/Information Form (Part A), and the State and Local Overtime Forms for Operation White Rabbit East (WC-KS- 0068), specifically:

"1. the OCDETF Executive Office records described in the attached DOJ OCDETF Status Report - previously released by DOJ under FOIA Request Number CRM- 200900353P - citing therein OCDETF Investigation Number WC- KS-68 and WC-KS- 0068 (Operation Name: White Rabbit East) under "Source: OCDETF Investigation, Indictment or Information Form," but with this request limited only to the following three (3) records in the OCDETF Management Information System (MIS) or other databases: a.) the Investigation Initiation Form (IIF) for OCDETF Operation White Rabbit East (WC-KS-68 or WC-KS-0068) submitted from the West Central OCDETF region of Kansas; b.) Part A of the Indictment or Information Form (Case), listing the personnel (i.e. attorneys) and agencies involved and numbers of personnel by agency, as required by the OCDETF Management Information System Reporting Forms; c.) the forms reporting the State or Local law

enforcement officers assigned to participate, the Local Overtime and Authorized Expense Forms, and the Officers Overtime Log for Billing for 2001, 2002, and 2003. In sum, a search is requested of the OCDETF MIS for the OCDETF Investigation Initiation Form, the Indictment/Information Form (Part A), and the State and Local Overtime Forms for Operation White Rabbit East (WC-KS-68 or WC-KS-0068) [] Please note EOUSA has already disclosed the identities of two of the OCDETF member agencies (DEA and IRS) and that redaction of these and other federal and state participating agencies is unnecessary in this instance (see attached EOUSA response to your referral records responsive to Request Number CRM- 200900353P for a direct determination by EOUSA, p. 2." Status: On October 18, 2009, appealed delay in responding to DOJ/OIP. On November 13, 2009 DOJ/OIP referred matter to DOJ Criminal Division. On November 25, 2010 DOJ/CD responded that "The OCDETF

Investigation Initiation Form was located in our search for records concerning you in response to your Privacy Act request (200900353P) date March 8, 2009. The form originated in the Office of the U.S. Attorney for the District of Kansas. Pursuant to Department practice, we referred that record to the Executive Office for U.S. Attorneys (which processes such records) for review and direct response to you. We did not locate any other records responsive to your request. Regarding the portion of your request and local records, the Federal Freedom of Information Act applies only to Federal Agencies. Therefore, if you have not already done so, you may wish to contact the appropriate State and local offices for records responsive to that portion of your request." [NB: DOJ/CD did not refer this request to OCDETF at DOJ, which is no longer part of the Criminal Division, for review of its records of payments and personnel in the state and local agencies participating in the OCDETF investigation]

September 14, 2009 Req. No. 200900725F Request for "the revised 2002 OCDETF Guidelines." Status: On November 25, 2009 DOJ/CD responded that: "We have located one document (item 1) within the scope of your request. In light of our review we have determined to withhold the item (as described in the enclosed schedule) in full." (and withholding based on exemption (b)(2) (information relating solely to the internal personnel rules and practices of any agency) and (b)(5) (inter-agency and intra-agency memoranda or letters that reflect the predecisional deliberative processes of an agency). On December 3, 2009 the withholding was appealed to DOJ/OIP, stating in part: "1. The OCDETF Guidelines has been publicly available in unredacted form for nineteen (19) years, since its adoption on (December 26, 1990) and through the current date. A copy is attached as Exhibit 2. 2. A net search for the OCDETF Guidelines resulted in 408 sites, with

descriptions of its availability through Amazon and numerous state and university libraries including but not limited to the New Jersey State Library, the New Mexico State Library, the New Hampshire State Library, and Columbia University Law School. 3. It is easily discerned that the OCDETF Guidelines is of significant public interest to legal scholars, analysts, law faculty and students, criminologists and the lay public. 4. DOJ's claim of exemption (b)(2) is inappropriate in this instance, as noted in Yeager v. DEA (D.D.C. 19080) regarding DEA's NADDIS database. In Yeager (Id.), the government also asserted exemptions (b)(2) relating 'solely to the internal personnel rules and practices of an agency.' The district court observed 'This is clearly not the case. As the affidavits indicate, NADDIS contains considerable information that would be of interest to persons outside the agency itself.' The broad availability of the OCDETF Guidelines suggests the content is of interest to

persons extant to the DOJ Criminal Division.' 5. Similarly, the claim of exemption (b)(5) regarding inter-agency or intra- agency memoranda must also fail. The OCDETF Guidelines is not a memorandum, but an actual instructive agreement established by numerous federal and state agencies and signed by their representatives (see Ex. 2, p. 20-21). In any event, the 2002 OCDETF Guidelines (revised) cannot be withheld in its entirety when its substantive content has been in the public domain, released by DOJ, for decades. It is requested that OIP remand this appeal to DOJ with instructions to release the 2002 OCDETF Guidelines in unredacted form." On March 17, 2010 as Appeal No. 2010-0684, DOJ/OIP stated "After carefully considering your appeal, and following discussions between Criminal Division personnel and a member of (DOJ/OIP) staff, (DOJ/OIP) is remanding your request for further processing of the responsive records. The Criminal Division will send any and all

releasable records to you directly, subject to any fees." On April 16, 2010 DOJ/CD responded on remand that "After consultation with the Office of Information Policy we are releasing the enclosed material (item 1, consisting of 2 pages) in full." On April 23, 2010 a second appeal was made to DOJ/OIP, stating in part: "Although remanded by OIP for releasable records of the twenty-eight (28) page 2002 OCDETF Guidelines, DOJ thereafter disclosed only two (2) pages. As noted in the prior appeal, the 2002 revised OCDETF Guidelines are similar - if not identical in portions - to the publicly available OCDETF Guidelines existing prior to the 2002 revision." · On May 28, 2010 DOJ/OIP assigned to the second appeal number 2010- 1994. On September 21, 2010, the appeal was remanded a second time to DOJ/CD with instructions to release the 2002 OCDETF Guidelines. No further response has been received from DOJ/CD even after a second remand. December 7, 2009 Req. No. OJP FOIA No. 10-00132

Request for Regional Information Sharing System (RISS) records and grants involving Criminal Intelligence systems, specifically: "1. the grant application to DOJ for funding provided by DOJ/BJA/OJP as Grant Number 2002-RS-CX- 0004 and concerning in part the Regional Information Sharing System (RISS); 2. a list of all grants - including but not limited to those involving RISS - provided by DOJ/BJA/OJP for research and development of criminal intelligence systems as described by 28 CFR Part 23; 3. a copy of the OJP annual notice indicating the existence and the objective of all systems for the continuing interjurisdictional exchange of criminal intelligence information which are subject to the 28 CFR Part 23 Criminal Intelligence Systems policies (see 28 CFR 23.40(c), Monitoring and Auditing of grants for the funding of intelligence systems); 4. a copy of the current DOJ "RISS Program Funding and Administration Guidelines" Status: On March 22, 2010 DOJ Office of Justice

Programs (OJP) responded by providing copies of three of the requested documents, while continuing a search for responsive material. On June 11, 2010 DOJ/OJP responded that it has "conducted a search of the records and enclosed are 16 documents, consisting of 340 pages, that are appropriate for release [] This completes the processing of your request by OJP." On June 20, 2011 an appeal was made to DOJ/OIP noting in part: "B. Although DOJ/OIP has released responsive records on two occasions, the release concerned only item 1 and 4 (in the request) supra (the grant application for RISS, and the Program Funding and Administration Guidelines). C. DOJ/OIP has not released records, which it is mandated to retain, concerning items 2 and 3 supra (viz. a list of all DOJ/BJA/OJP grants for research and development of 28 CFR Part 23 criminal intelligence systems, and a copy of the OJP annual notices of the existence and objectives of criminal intelligence systems in compliance

with CFR 23.40(c)). Hence, a remand is requested to DOJ/BJA/OJP for the release of the records responsive to the requested items 2 and 3 supra)." On July 7, 2010 DOJ/OIP assigned appeal number 2010-2356. On August 11, 2011 DOJ/OIP remanded the "request for a further search for records responsive to your request." No further records have been released. December 11, 2009 Req. No. CRM-201000042F Request for records of Operation White Rabbit, specifically: "(records relating the the undersigned) in 1. The OCDETF "Status Report" form generated by OCDETF for the Criminal Division; 2. the OCDETF Investigation Initiation Form (IIF) for Operation White Rabbit (PA-CAN-219) originating on May 22, 2001 in the Northern District of California, and identifying all agencies ultimately participating in Operation White Rabbit (including the originating agencies DEA and IRS); 2. Part A. of the Indictment or Information Form (Case), listing the personnel

(i.e. attorneys) and agencies involved and the numbers of personnel by agency, as required by the OCDETF Management Information System reporting forms; 3. the OCDETF Disposition and Sentencing Report - by Defendant; 4. the closing report for this investigation, if any." Status: On January 27, 2010, DOJ responded it would conduct a search of Criminal Division records. On April 13, 2010 DOJ responded "We did not locate any Criminal Division records responsive to your request. We did, however locate records that originated with the Executive Office for United States Attorneys" and referring the request to EOUSA for a direct response. On August 9, 2010 EOUSA responded (Referral Req. No. 10-1533-R) that 37 pages of material were reviewed and 37 pages were being withheld in full. March 4, 2010 Req. No. CRM- 201000366F Request for OCDTEF Management Information System (MIS) records of Operation White Rabbit, the OCDETF MIS Operating Manual, and various Memoranda of

Understanding on major DOJ databases, specifically: "1. Any and all records within or accessible to the OCDETF MIS in which the undersigned is a subject of interest or only referenced, including but not limited to: a.) OCDETF Operation White Rabbit (PA-CAN-219); b.) OCDETF Operation White Rabbit East (WC-KS-68); c.) printouts of the screen displays of the indices of the OCDETF MIS pointing to the requested records for items 1 and 1.a-b supra; d.) all records of the search being conducted; 2.) the table of contents for the OCDETF MIS operating manual, user guide, or equivalent; 3.) the OCDETF MIS operating manual, user guide, or equivalent; 4.) the memorandum of understanding or equivalent for datasharing and ingestion of OCDETF MIS records into: a.) FBI's Central Records System (CRS); b.) FBI's Investigative Data Warehouse (IDA); c.) DEA's NADDIS system; d.) DEA's X system; e.) the Regional Information Sharing system (RISS) operated under the guidance of

DOJ (OJP/BJA) as a 28 Part 23 Criminal Intelligence system." Status: Sent by Certified Mail No. 7009 1680 0001 9129 1314. No response by DOJ. Resent by Certified Mail No. 7009 1680 9131 4403 and requesting a tracking number. On October 6, 2010 DOJ
replied that "We previously have responded to records in this request related the White Rabbit, which were referred to the Executive Office for United States Attorneys for processing in April 2010. Please be advise that the Organized Crime Enforcement Task Force is no longer part of the Criminal Division" and routing the entire request to OCDETF, 601 D Street, N.W., Washington, D.C. 20530. OCDETF responded with a search resulting in 91 pages of the OCDETF Investigation Initiation Form (IIF), released one page in full and withheld the balance of the document. [NB: OCDETF did not respond to the requests for the OCDETF MIS operating manual or the memoranda of understanding, or to the request for printouts of

the screen displays of the indices.] March 22, 2010 Req. No. CRM- 201000311F Request for records describing the DOJ Computer Center as defined in a publication of FBI (59 FR 29824/06-09-94) citing the "DOJ Computer Center, Rockville, Maryland" and specifically: "1. records listing and describing all databases, applications and pointer indices originating from any agency or entity and available to authorized users through telecommunications access to the Department of Justice Computer Center (e.g. DEA's Case Status System (CAST) and numerous other agencies systems); 2. screen display printouts of the interfaces to all databases, applications and indices available to authorized users of the DOJ Computer Center." Status: Sent by Certified Mail No. 7009 1680 0001 9129 1420. On May 28, 2010 DOJ assigned Request Number CRM- 201000311F and stated "Please resubmit your request containing a more specific description of the records you are seeking" while also suggesting

the request be made to other DOJ components. On June 5, 2010 a specific description was provided to DOJ, stating "1. This correspondence narrows the request and describes more specifically the Criminal Division records of interest. 2. As per your suggestion, similar requests are being made to other divisions of DOJ regarding their indices and records maintained by the DOJ Computer Center. 3. Insofar as the Criminal Division has provided certain of its indices and records to the DOJ Computer Center (as has DEA in providing its NADDIS index, and FBI in providing the Counterdrug Information Indices System (CIIS)), please provide records listing the Criminal Division indices and records maintained by the DOJ Computer Center for access by authorized federal employees. 4. As described in the request, a printout of the screen display of the DOJ Computer Center that is available to the DOJ Criminal Division - and listing other federal agencies indices that may

be searched - is also requested. 5. Please note that this request involves both Criminal Division and other Government Agency (OGA) indices and records that are routinely accessed by, as well as those originating from, the Criminal Division. 6. Hence, this request attempts to define, inter alia, the application of FOIA to interoperable record systems shared by multiple federal agencies. 7. As one example, in that DEA's NADDIS database is viewable by the Criminal Division through the DOJ Computer Center, a printout of the NADDIS screen display available to the Criminal Division is requested. The Criminal Division may wish to refer the determination on the NADDIS screen display to DEA, and OGA indices to the relevant federal agencies." On September 30, 2010 DOJ replied that "Our office consulted with the Criminal Division Information Technology Center representative, and we have been advised that the Department of Justice does not have nor has there ever been

a DOJ Computer Center." [NB: but see FBI discussion in Federal Register describing "DOJ Computer Center, Rockville, Maryland (59 FR 29824/06-09-94).] Appealed to DOJ/OIP, stating in part: "2. Although the DOJ Computer Center may be known by another name, please note the attached "request for Records Disposition Authority" dated 5/30/2002 by DEA, in which it describes its 'Case Status System (CAST)' 3. Under 'Description' is the statement 'The system is available to authorized users having telecommunications access to the Department of Justice (DOJ) Computer Center' 4. Hence, please remand this matter to DOJ with instructions to produce the requested records of the DOJ Computer Center' - or the equivalent by any name - that permits telecommunications access to DOJ computers and thereby DEA's CAST system and other agencies' systems accessible through DOJ." On January 13, 2011 DOJ/OIP affirmed DOJ/JMD action on the request. [NB:DOJ has not responded to the

request for DOJ computer systems ("or the equivalent by any other name") that permits access to DOJ computers by DOJ or other government agencies.] April 23, 2010 Req. No. CRM- 2010000482F Request for DOJ records of Operation Flashback, specifically: " 1. DEA Special Enforcement Program "Operation Flashback" (DEA SEP-581); 2. In this regard, a search is requested not only of those databases routinely searched in response to FOIA requests, e.g. the Narcotics and Dangerous Section and other Criminal division databases likely to retain records concerning DEA Special Enforcement Programs, but also a.) the OCDETF MIS (Management Information System) and the OCDETF Fusion Center; b.) the DOJ Computer Center, including the indices of DEA, FBI, EOUSA and Other Government Agencies (OGAs) records systems; c.) the DOJ Computer Center search would include but not be limited to, e.g. DEA's CAST and NADDIS indices, FBI's Universal Index, RISS, and OGA

indices." Status: Sent by Certified Mail No. 70091680 0001 9131 6765. No tracking number assigned within 20 days. On June 30, 2010, an appeal was made to DOJ/OIP regarding the lack of a tracking number. On September 27, 2010, DOJ/OIP responded that "the Criminal Division has assigned your Request No. CRM-2010000482F." On October 6, 2010, DOJ/OEO responded (citing another Req. No. CRM-2010000382F) that "As we have previously advised you, the Narcotics and Dangerous Section performed a search and has no records pertaining to you. Please also be advise, there is no such thing as the DOJ Computer Center" and routing the DOJ request to DEA. [NB: DOJ did not address the request to search the DOJ OCDETF Fusion Center and the OCDETF Management Information System for relevant records.] May 17, 2010 Tracking no. 1929208 Justice Management Division Request for records of DOJ Financial Management Information System (FMIS) pertaining to

OCDETF Operation White Rabbit, specifically: "records from a search of: 1. the Department of Justice Financial Management Information System (FMIS), limited to any and all FMIS records pertaining to: a.) OCDETF Operation White Rabbit (PA-CAN-219); b.) OCDETF Operation White Rabbit East (WC-KS-68); c.) DEA Special Enforcement Program Flashback (SEP-581); d.) the undersigned, either as a main subject or only referenced; 2. the screen displays of the FMIS indices pointing to the originating records as described in items 1.a-d supra; 3.) the table of contents or index for the FMIS operating manual or equivalent." Status: Request to DOJ/CD referred to Justice Management Division (JMD) of DOJ. On August 19, 2010 assigned tracking number 1929208. On September 28, 2010 DOJ/JMD responded "We have conducted a search in FMIS, and have not found any records that include your name and any of the OCDETF or DEA operations identified in your request." On

October 26, 2010 the response was appealed to DOJ/OIP stating: "1. It is improbable that the DOJ Financial Management Information System (FMIS) would not contain records or OCDETF investigations or DEA Special Enforcement programs, whether or not the undersigned's name is used as a search term; 2. the JMD decision failed to address the request for "the table of contents or index for the FMIS operating manual or equivalent," No further response by DOJ. June 1, 2010 Req. No. CRM-201000482F Request for "the NADDIS record (on the undersigned) maintained at the DOJ Computer Center, in basic, partial and full display format." Status: Sent by Certified Mail No. 7009 1680 0001 9131 7342. On June 20, 2010 DOJ responded that the request "was misdirected to the Criminal Division" and referring the request to DEA. No further response by DOJ or DEA. June 15, 2010 Req. No. CRM-201000311F Request for records describing the DOJ Computer Center,

specifically: "1. records listing and describing any and all databases, applications and pointer indices maintained by the DOJ Computer Center; 2. the records requested include DOJ and component agencies databases, applications and pointer indices, as well as those of all Other Government Agencies (OGAs) maintained by the DOJ Computer Center." Status: Sent by Certified Mail No. 7009 1680 0001 9129 1307. DOJ responded that no "DOJ Computer Center" existed. On October 25, 2010, the request was appealed to DOJ/OIP and assigned Appeal No. AP-2011- 00343. The appeal included an exhibit of an official DEA document citing DEA employees' access to the "DOJ Computer Center." On December 29, 2010, DOJ/OIP responded "In your appeal letter dated October 25, 2010, you provided a Enforcement Administration (DEA) record containing the phrase "DOJ Computer center." If you have not done so already, (it is) suggest [ed] that you submit a request directly to DEA for the records

you seek." June 28, 2010 Req. No. CRM-201000557F Request for DOJ records from DEA's X system, specifically: "records - both main and reference - pertaining to the undersigned in the DOJ X query system: 1. any and all records between June 1, 1994 and December 31, 2004 within the X query system; 2. any and all access or inquiry logs or equivalent indicating access to the X query system between the specified dates by DOJ or Other Government Agencies (OGAs), including but not limited to FBI, DEA, and IRS." Status: Sent by Certified Mail No. 7009 1680 0001 9129 2731. DOJ replied on July 28, 2010 stating "The system you have requested is not maintained by the Criminal division and we are unable to determine where it is located." On September 2, 2010, the DOJ response was appealed to DOJ/OIP, stating: "With regard to a request for records in the 'Drug X query system,' DOJ stated 'we are unable to determine where it is located'; 2. However, the 'Drug X' system is a

major shared records system of FBI and DEA. It is unlikely that DOJ would be unaware of the X system; 3. Additionally, the X system is accessible to DOJ personnel and Other Government Agencies (OGAs) that utilize the DOJ's Computer Center, including the DOJ Criminal Division. A remand is requested for DOJ to produce the X records available through the DOJ Computer Center." On September 21, 2010 DOJ/OIP assigned appeal number 2010-3229. On October 21, 2010, DOJ/OIP replied that "(the DOJ Criminal Division) does not maintain such a system of records" and "the records you seek may be maintained by the Federal Bureau of Investigation or the Enforcement Administration" and suggesting a FOIA request to those agencies. September 28, 2011 no tracking number assigned Requested DOJ records of Gordon Todd Skinner in light of Pickard v. DOJ, 653 F.3d 782 (9th Cir. July 27, 2011), specifically: "records pertaining to Gordon Todd Skinner, DOB 7/13/64, SSN 445-

72-2727. Importantly, this request does not requires a release authorization or proof of death, in that DOJ has officially confirmed Skinner as an informant, in accord with 5 USC 552(c)(2), as described in Pickard v. DOJ, 2011 LEXIS 15397 (9th Cir. July 27, 2011)(see also http://www.ca9.uscourts.gov/datastore/opinions/ 2011/07/2 7/08- 15504.pdf)." Status: Sent by Certified Mail No. 7010 2780 0003 1332 4465. No response by DOJ. FOIA Requests Helpful to the Defense Bar, District and Appellate Courts, and Public Interest Groups As an FOIA activist, Leonard has submitted FOIA requests for case information and for records that define government information systems. Pending and currently litigated requests to agencies include: Office of National Control Policy (ONDCP), Federal Bureau of Investigation (FBI), Enforcement Administration (DEA), Department of Justice, Criminal Division (DOJ/CD), Department of Justice, Bureau of Justice Assistance (DOJ/BJA), Executive Office

of United States Attorneys (EOUSA), National Archives and Records Administration, Office of Government Infomation Systems (NARA/OGIS), Department of Homeland Security (DHS), and Internal Revenue Service (IRS). Government Records Systems Being Researched Through FOIA include: OCDETF (Organized Crime Enforcement Task Forces - DOJ), HIDTA (High-Intensity Trafficking Area - ONDCP), RISS (Regional Information Sharing System - DOJ), NADDIS (Narcotics and Dangerous Information System - DEA), and IDW (Investigative Data Warehouse - FBI). DEA FOIA Requests January 25, 2005 (request for records of DEA informant Gordon Todd Skinner, specifically: "information and documents pertaining to DEA informant Skinner," and including "any information on Skinner's criminal history including records of arrests, convictions, warrants, or other pending cases, records of all case names, numbers and judicial districts where he testified under oath,

records of all monies paid in his capacity as a federal government informant, all records of instances where the DEA intervened on his behalf to assist him in avoiding criminal prosecution, all records of administrative sanctions imposed for dishonesty, false claims, or other deceit, all records of any benefits of any nature conferred, all records of deactivation as a confidential informant and the reasons for deactivation, and all records concerning Skinner's participation in criminal investigations.") Additionally, Skinner's NADDIS recoord was requested by separate letter and incoporated into this request. On February 11, 2005 DEA denied the request, and DOJ/OIP thereafter affirmed DEA's denial. Status: DEA's refusal to release these records was litigated in the Northern District of California (see Pickard v. DOJ, enter, N.D.Cal (CRB), Pickard 1). The district court denied the complaint, and the matter was appealed to the 9th Circuit (Case No. 08- 15504). Oral

arguments were completed on January 13, 2010. On July 27, 2011, the 9th Circuit REVERSED AND REMANDED the appeal to the district court (see http://www.ca9.uscourts.gov/datastore/opinions/2011/07/2 7/08-15504.pdf). March 17, 2006 (Req. No. 06-0643) (request for "the full 126-page report on the '(Office of Inspector General's) Audit to Assess the DEA's Compliance with Regulations Concerning DEA Informants.'") After four years, on July 16, 2010 DEA responded that "DEA has completed its review of the above OIG report and is returning the report to OIG for a direct response to you." No further response from OIG or DEA. March 5, 2008 (Req. No. 08-0758-F) (request for NADDIS record of deceased chemist Torr Eric Svenson, specifically: "1.) Svenson's NADDIS Index or summary, pointing to - and constituting the practical means for accessing - records in DEA's Investigative Filing and Reporting System (IFRS); 2.) I do not request the

associated IFRS records at this time, but only the Index.") Status: On May 5, 2008 DEA assigned a tracking number. On January 27, 2009, after conducting a search for Svenson's records, DEA responded that no records were found after a query of NADDIS/IFRS and requested more information on the subject, specifically "A specific event/geographical location (with specific dates) that the DEA participated in connection with Mr. Svenson." These criteria were provided on September 28, 2009, stating: "Attached is the result of a Social Security Death Index search, indicating that Tord E. Svenson's DOB is 1/7/37 and his SSN is 022-28-0985. it is likely that DEA has records relating to Svenson, for testimony in U.S. v. Timothy Scully, Nicholas Sand, and Lester Freidman (N.D. Cal. 1974) alleged that Svenson's clandestine laboratory was investigated by IRS as part of a joint DEA- IRS inverstigation. The following information (from the pubic record) may be helpful in locating

Svenson's NADDIS record and other responsive material to which NADDIS points: Tord Svenson was arrested in Boston, Masachusetts on November 29, 1967 in a lab reported by the press as an operation. He was also known as Todd Sorenson, Tom Wilson and Ralph Conner. His associates included Ronald Hadley Stark, Richard Kemp, Michael Boyd Randall, Thelma Berg, Lester Freidman, and Ed May. He used the alias Todd Sorenson during the period of 1971-1972, when he worked at Laboratorie Le Clocheton near Brussels, Belgium, later investigated by DEA." DOJ/OIP remanded an appeal to DEA (Appeal No. 09-1294). DEA on August 5, 2010 restated it was unable to locate Svenson's NADDIS. (Comment: This request was made on behalf of Dr. Tim Scully.) March 18, 2008 (Req. No. 08-0793-F) (request for NADDIS record of deceased chemist Ronald Hadley Stark.) Status: DEA denied the request, stating it would require "creation of a record." After appeal to DOJ/OIP (Appeal No. 09-0013),

DOJ/OIP on August 3, 2009 remanded to DEA with instructions to release the NADDIS record. On October 19, 2009 DEA again refused to produce the NADDIS record, stating "NADDIS is primarily internal and is used as an index to our Investigative Reporting and Filing System (IFRS). What is commonly referred to as a 'NADDIS printout' is the result of the system compiling discrete data in response to a query of the system. A NADDIS printout is therefore the creation of a record. Under FOI an agency is not required to create a record to satisfy a FOI requester." On November 3, 2009, a second appeal was made to DOJ/OIP (Appeal No. 2010-0511), and intervention was requested by NARA/OGIS. The appeal stated that in Yeager v. DEA, 678 F.2d 315, 325-325 (D.C. Cir. 1992), the D.C. Circuit observed "we are unable to discern from the record any reason that DEA should have been excused (from producing the record) other than the fact that the Agency (sic) simply does not want to reveal the nature of the

information contained in NADDIS." The appeal to DOJ/OIP for Stark's NADDIS also stated "DEA [] claims that 'NADDIS is primarily internal' and that the request requires 'the creation of a record.' However, these arguments have been litigated and refuted by the courts in prior decisions concerning NADDIS. Directly on point is Yeager v. DEA, LEXIS 17864 (D.D.C. 1980), wherein DEA made exactly the same arguments thirty years ago. The Yeager Court noted, "DEA claims that NADDIS is merely an index, a tool for locating substantive files elsewhere in DEA's records systems. As such, it need not be disclosed [] This is clearly not the case. As the affidavits indicate, NADDIS contains considerable substantive information that would be of interest to persons outside the agency itself [] Although described by DEA as a computerized index, the NADDIS system is in fact part index and part substantive records system ... Each entry is in fact a separate record of an individual, business, building, or vehicle

somehow connected with activity by DEA ... Each separate NADDIS entry contains substantive information and a list of references identifying other files mantained by DEA which contain additional information about the subject. The substantive data on an individuals record consists of specific information such as name, aliases, date and place of birth, race, sex, residence, education, occupation, state of current activity, prior criminal record and activities, types of involved, and DEA's assessment of the scale of the individual's involvement in activity. Each category of information is recorded, either expressly or in code, at a specific location on each NADDIS record. In addition, each record contains a 'Remarks' section where additional information may be recorded in prose format." On July 13, 2010, DOJ/OIP remanded for a second time instructing DEA to produce Stark's NADDIS record. DEA then released seven pages of Stark's NADDIS, the first NADDIS record ever

released under FOIA by DEA. No appeal was made. See NADDIS paper at http://www.freeleonardpickard.org/NADDIS for link to Stark's NADDIS for an example of a NADDIS record helpful to the defense bar. June 19, 2008 (Req. No. 08- 0710-P) (request for NADDIS records of William Leonard Pickard and any records on DEA files GFAN-97- 8003 and GFAN 87-8008.) After numerous denials by DEA for NADDIS records of other individuals (see, e.g. the March 18, 2008 request for the NADDIS of Ronald Hadley Stark), and multiple remands of appeals to DOJ/OIP, DEA after two years released on August 24, 2010 the requested 36 pages of the NADDIS record, limited only a narrow "QSID" query of NADDIS, but also released the "access logs" (i.e. DEA's "audit detail report" showing dates and locations that queried NADDIS for Leonard's records). Appealed to DOJ/OIP, which denied the appeal on July 5, 2010, noting "With regard to the portion of your appeal in which you requested

your 'full NADDIS record, rather than a particularized and narrowed display,' please be advised that DEA did provide you with your full NADDIS record." Additionally DEA stated: "A thorough seach of DEA investigative file number GFAN-97-8003 was conducted {and] no records responsive to the subject of your request was located in [this] investigative file [and] be advied that no DEA investigative file numbered GFAN-87-8008 was located." Appealed significant redactions in this NADDIS record (Cf. few redactions on Stark's NADDIS (se above). On July 5, 2011, DOJ/OIP denied the appeal. June 22, 2009 (Req. No. 09- 1176-F) (request for Investigation Initiation Form (IFF) of the OCDETF Operation "White Rabbit" and "White Rabbit East.") Status: After no response by DEA for seven months, the delay was appealed to DOJ/OIP. On January 19, 2010 DEA replied stating the information was held by other agencies. On April 12, 2009 OIP stated DEA referred request to EOUSA. No further

response from DEA (but see EOUSA response below). August 26, 2009 (Req. No. 10-0186-F) (request for DEA records of deceased Skinner victim Paul Kenneth Hulebak and providing proof of death.) Status: On February 16, 2010 DEA refused to produce Hulebak's NADDIS record, stating it would require "creation of a record." DEA reviewed and withheld-in-full 31 pages of other responsive material, but released 8 pages including a report on the death of Paul Hulebak. The failure to release the NADDIS record was appealed to DOJ/OIP (Appeal No. 2010- 1516) and to NARA/OGIS (In Re Case No. 10-0140 MN:KF:CM). On July 14, 2010 DOJ/OIP remanded to DEA to produce four pages of NADDIS records. On July 28, 2010, DEA released Hulebak's partial NADDIS record. No appeal. September 4, 2009 (Req. No. 10-0272 -F) (request for DEA's "Memorandum of Understanding (MOU) or equivalent documents concerning agreements between DEA and FBI to include DEA's NADDIS record

dataset as part of FBI's Investigative Data Warehouse (IDW).") Status: After appeal to DOJ/OIP of DEA's delay in responding, DEA on March 5, 2010 stated it "located no information." Appeal to DOJ/OIP (Appeal No. 10-0272-F) denied on August 16, 2010. October 5, 2009 (Req. No. 10- 0161-F) (request for DEA's NADDIS Operating Manual.) Status: After appeal to DOJ/OIP of DEA's delay in responding, DEA on December 22, 2009 stated "at this time, the manual is not available for public disclosure. However, our office is in the process of negotiating with the DEA component that is responsible for mantaining and reviewing the information you requested to determine when the information will be made available. You may wish to write back at a later time." On June 15, 2010, the NADDIS Operating Manual was requested again (see below). October 18, 2009 (Req. No. 08-1409-F) (request for DEA Agents Manual.) Status: DEA delayed assigning a request number for six months until December

5, 2009. No response on request for DEA Agents Manual through 2011 (but see prior version of DEA Agents Manual released through FOIA, available at: http://www.shroomery.org/9671/DEA- Agents-Manual-rev- 2002; and http://www.scribd.com/doc/6491228/DEA- Agents- Manual-2002). March 22, 2010 (Req. No. 10- 00706-F) (request for records and emails describing inclusion of DEA's NADDIS index into FBI's Investigative Data Warehouse (IDW), specifically: "1. any and all records concerning DEA's agreement or refusal to include DEA's NADDIS dataset as part of FBI's Investigative Data Warehouse (IDW); 2. emails between DEA and FBI officials concerning item 1 supra; 3. communications between DEA's Office of General Counsel or equivalent; or the Information Technology Staff or equivalent, and the corresponding offices at FBI concerning item 1 supra; 4. records concerning the inclusion or exclusion of any DEA database

other than NADDIS into FBI's IDW".) Status: DEA assigned tracking number 10-00706-R, but no further response. April 2, 2010 (Req. No. 00746-P) (request for NADDIS record from 1994 through 2004 for William Leonard Pickard.) Status: NADDIS record release on August 24, 2010. April 7, 2010 (Req. No. 10-00678-P) (request for Sec. 6612.13 of the DEA Agents Manual, specifically: "Any and all records pertaining to the implementation and use of DEA Agents Manual Sec. 6612.13, including but not limited to: a. the eleven risk assessment factors described therein concerning potential or prior DEA informants, cooperating defendants/witnesses, or sources of information; b. the specific DEA form and formatting utilized or required for compliance with Sec. 6612.13 and the risk assessment factors; c. copies of Sec. 6612.13 and the related risk assessment factors applicable in 2000-2001, and at any other time.") Status: After delay by DEA, mediation was requested from NARA/OGIS, and a FOIA

complaint in the United States District Court for the Northern District of California (venue transferred to Arizona (see Pickard v. DOJ 4:11-CV-00443-DCB)(Pickard II) Comment: This request and litigation is an outcome of the preparation of a "risk assessment" for Gordon Todd Skinner based on "Sec. 6612.13" by Agent Karl Nichols and sealed by the district court at trial.) April 14, 2010 (no request number issued) (request for records pertaining to William Leonard Pickard and Operation Flashback (DEA SEP-581).) Sent on April 21, 2010 by Certified Mail No. 7009 1680 0001 9131 7489. No response by DEA. Appealed to DOJ/OIP, which responded on September 8, 2010 stating "DEA has no record of ever receiving this FOIA request from you." May 17, 2010 (Req. No. 10-00727-F) (request for NADDIS, IFRS, and Confidential Source System (CSS) records of the DEA informant Andrew Chambers (whose DEA records were ordered released due to the public interest in "massive DEA misconduct"

involving Chambers). See Bennett v. DEA, D.C.D.C. 1999.) Status: After DEA assigned tracking number 10-00727-F, no records have been released. May 18, 2010 (no request number issued) (request for NADDIS record on deceased distributor Frank Anthony Regusa, specifically" "1. the complete NADDIS printout on Regusa, including but not limited to a printout of the full display format of the NADDIS record; 2. printouts of both the partial and basic NADDIS display on Regusa, 3. the records in the IFRS and other databases to which the NADDIS entries point, are not requested in this instance. Please find attached proof of Regusa's death, in the form of a.) the title page of People v. Reilly, 196 Cal. App. 3d 1127, 242 Cal. Rptr. 496.") This request was the second attempt to obtain Regusa's NADDIS, in that DEA did not respond to a December 7, 2008 request. This second request was sent by Certified Mail No. 7009 1680 0001 9129 9678. DEA has not responded. June 15, 2010 (req. No.

10- 00775-F) (request for NADDIS Operating Manual, specifically: "1. the Operating Manual or equivalent use guide for DEA's NADDIS system; 2. records of any and all communications by DEA's FOI/Records Management Section with any DEA component or Other Government Agency (OGA) concerning the prior request for these records (Req. No. 10-0161- F).") Sent by Certified Mail No. 7009 1680 0001 9129 0775. DEA responded on June 24, 2010 and assigned tracking number. No further response by DEA. August 16, 2010 (no tracking number assigned) (request for records describing all queries that may be performed on NADDIS, specifically "1. records describing any and all queries that may be performed on NADDIS, including but not limited to: a. the "Subject and Alias Name Query" or QNME query; b. the QDOI query for partial records; c. the query for the full NADDIS display; d. queries limiting the results to, e.g. reference files, the complete documents

in the IFRS, electronic communications, Other Government Agency (OGA) records, or any other NADDIS datasets that may be queried.) Sent by Certified Mail No. 7009 180 0001 9129 2694. No response by DEA (sent with the requests of August 20, 2010; August 22, 2010 described below. Only the August 22, 2010 request was acknowledged and assigned a tracking number). August 20, 2010 (no tracking number assigned) (request for complete NADDIS record of William Leonard Pickard, specifically: "1. any and all NADDIS records from the inception of he NADDIS record (NADDIS 21202); 2. the basic, partial and full NADDIS display record; 3. any and all results that may be obtained from all queries of NADDIS that may be performed, including but not limited to: a. the "Subject and Alaias Name Query" or "QNME" for basic records; b. the QDOI query for partial records; c. the query for the full NADDIS display; d. queries displaying the result of, e.g. reference files, the abstracts or

summaries of documents in the IFRS, electronic communications, and Other Government Agency (OGA) records, and any and all other NADDIS datasets that may be queried.") Sent by Certified Mail No. 7009 1680 0001 9129 2694. No response by DEA. August 22, 2010 (Req. No. 10-00857-F) (request for NADDIS records of Operation White Rabbit, Operation White Rabbit East, and Operation Flashback, specifically: "1. any and all NADDIS records resulting from a "QDOI" search of NADDIS utilizing the search terms: a. Operation White Rabbit; b. Operation White Rabbit East; c. Operation Flashback.") Sent by Certified Mail No. 7009 1680 0001 9129 2694 (together with the August 20, 2010 request for NADDIS records of WIlliam Leonard Pickard, see above where no tracking numbers were assigned). DEA assigned tracking number on September 1, 2010. No further response by DEA. August 23, 2010 (Req. No. 10- 00856-F) (request for NADDIS record of businesses associated with

Gordon Todd Skinner, e.g. Gardner Springs, Inc., specifically: "1. any and all NADDIS records resulting from a "QDOI" search of NADDIS utilizing the following search terms for businesses in Tulsa, Oklahoma: a. Gardner Industries, Inc.; b. Gardner Springs, Inc.; c. Skinner Industries, Inc.; d. GTCO, Inc.") Sent by Certified Mail No. 7009 1680 0001 9129 2694. DEA assigned tracking number on September 1, 2010. No further response by DEA. August 28, 2010 (no tracking number assigned) (request for the operating manual or equivalent for the Multisource Query System (MSQ).) Sent by Certified Mail No. 7009 1680 0001 9129 2687. No response by DEA. August 29, 2010 (no tracking number assigned) (request for the operating manual or equivalent for the Confidential Source System (CSS).) Sent by Certified Mail No. 7009 1680 0001 9129 2687. No response by DEA. August 30, 2010 (no tracking number assigned) (request for Central Reference System printouts on Willliam

Leonard Pickard, specifically "1. printouts of screen displays of any and all indices indicating responsive records in the Central Reference System (CRS).") Sent by Certified Mail No. 7009 1680 0001 9129 2687. No response by DEA. September 20, 2010 (no tracking number assigned) (request for records of Operation Flashback pertaining to Willilam Leonard Pickard, specifically: "1, any and all records concerning Operation Flashback (DEA SEP-581) including but not limited to: 2. records concerning Operation Flashback in the Investigative Filing and Reporting System, Operations, and Planning and Inspection Division System of Records; printouts of the screen displays of the indices pointing to the relevant records.") Sent by Certified Mail No. 7009 1680 0001 9129 2687. No response by DEA. October 14, 2010 (no tracking number assigned) (request for records of death of Paul Hulebak in the presence of Gordon Todd Skinner specifically: "1. the audit detail report

for Hulebak's NADDIS, listing total hits and sorted by date.") Sent by Certified Mail No. 7009 1680 0001 9129 2649. No response by DEA. October 15, 2010 (no tracking number assigned) (request for records of death of Paul Hulbak in the presence of Gordon Todd Skinner, specifically: "1. the 'autopsy findings and a copy of Hulebak's obituary' as noted in File No. M4-97-2005 (DEA ROI re: Death of Paul Hulebak) dated 01/28/00.") Sent by Certified Mail No. 7009 1680 0001 9129 2649. No response by DEA. October 16, 2010 (no tracking number assigned) (request for serialization of case file number BB-01-0007, specifically: "1. a 'QSER' search of NADDIS for case file number BB- 01-0007 (see DEA Agents Manual Sec. 6233.2 'Serialization of Indexed Names'.) Sent by Certified Mail No. 7009 1680 0001 9129 2649. No response by DEA. October 17, 2010 (no tracking number assigned) (notice of prior unanswered requests previously sent, specifically: "1. a series of four (4) requests was

made to DEA by Certified Mail Number 7009 1680 0001 9129 2649. Although DEA assigned tracking numbers to two of the requests (10-00867-F, and 10- 00856-F), the two remaining requests were not assigned a tracking number (viz. one dated 8/16/10 for records of types of NADDIS queries that may be made; and one dated 8/20/10 for all possible queries of NADDIS for records on the undersigned. Hence, please assign tracking numbers for these requests, copies of which are enclosed.") Sent by new Certified Mail No. 7009 1680 0001 9129 2694. No response by DEA. October 21, 2010 (no tracking number assigned) (request for audit detail of queries to NADDIS for NADDIS #2002804.) No response by DEA. October 25, 2010 (no tracking number assigned) (request for the NADDIS record printout resulting from a QDOI search of NADDIS for NADDIS #2002804.) No response by DEA. October 30, 2010 (no tracking number assigned) (request for all records on William Richard Wynn,

specifically: "1. Any and all records, both main and reference, concernng Mr. Wynn, including but not limited to those in: 1. IFRS; 2. Operations; 3. Planning and Inspection; 4. CSS.") This request included an original, signed, notarized DOJ-361 release authorization by Mr. Wynn. Sent by Certified Mail No. 7009 1680 0001 9129 4445. The mailing included: a.) the requests for the NADDIS of Wiliam Wynn; b. the "all records" request on Mr. Wynn; c. a request for the redacted "Remarks" section of the NADDIS on William Leonard Pickard; and d. selected complete files pointed to by NADDIS on William Leonard Pickard. No response by DEA. October 31, 2010 (no tracking number assigned) (request for blank DEA-512 form, specifically "A copy of a blank DEA-512 (Confidential Source Establishment Form).) DEA did not respond, but on July 1, 2011 released a current, blank DEA-512 form. November 1, 2010 (no tracking number assigned) (renewal of April 14, 2010 request

(attached) pertaining to William Leonard Pickard, specifically: "Any and all records relating to Operation Flashback (DEA SEP-581) described in the attached April 14, 2010 request previously sent to DEA by certified mail #7009 1680 0001 9129 1406.") No response by DEA. November 2, 2010 (no tracking number assigned) (request for redacted section of "Remarks" section of NADDIS on William Leonard Pickard and the files to which this section pointed, specifically: "1. in the 'Remarks' section of the NADDIS record (NADDIS 21202), an unredacted copy of lines 25 through 26 and lines 46 through 54; 2. copies of all records in the IFRS to which entries in this section point.") Sent by Certified Mail No. 7009 1680 0001 9129 4445. No response by DEA. November 3, 2010 (no tracking number assigned) (request for IFRS records to which "Remarks" section of NADDIS for William Leonard Pickard pointed.) Sent by Certified Mail No. 009 1680 0001 9129 4445. No

response by DEA. - See more at: http://freeleonardpickard.org/DEA-FOIA-Requests.html#sthash.XXI27DpG.dpuf

Timeline of Gordon Todd Skinner Comments, additions, corrections? Your analysis of events? Contact us at aphrodine.1@gmail.com. This partial chronology is updated and edited monthly. Please check back for further details. This file last updated on April 24, 2013. See also herein a Timeline on Krystal Ann Cole, also known as Krystle Ann Cole, K.A. Cole, and Krystal/Krystle Ann Cole-Skinner (see entries from June, 2000 through January, 2011). July 13, 1982: Skinner's 18th birthday. 1983: Skinner graduates from Cascia Hall high school in Tulsa, Oklahoma. 1983: Skinner purchases Traveler's check in Tulsa, reports them stolen and makes claim for redemption, then travels to Las Vegas, Nevada and attempts to cash the check using fraudulent identification. After casino cage manger detects fraudulent ID, Skinner is arrested with briefcase containing his

stepfather's sidearm. Skinner's stepfather Gary Magrini, an IRS agent, intercedes on the arrest to prevent conviction. July 13, 1983: Skinner's 19th birthday. Fall, 1983: Gordon Todd Skinner attempts five business courses during one semester at the Heidelberg classroom of Schiller International University, a Florida- based business school. Upon completing one course, Skinner drops out, ending his formal education. Skinner returns to Tulsa, Oklahoma. 1983: As the informant in United States v. Yvonne Wilson, J.F. Spann, Sam Merit, and Oded Benary, 962 F.2d 16 (9th Cir. 1992)(hereinafter "Merit"), Gordon Todd Skinner testified that he cooperated in a 1983 case, but refused to disclose the details. He later changed the dates to 1984-1985, stating that he initiated a case involving money laundering by turning over cashier's checks, and the investigation was conducted by multiple federal agencies. Skinner stated he was never the subject of any investigation. 1984: IRS agent Gary Magrini,

Skinner's stepfather, assigned to DEA. early 1984: In the Merit case, Gordon Todd Skinner also testified that in the early part of 1984 he initiated an investigation into a "woman business associate" by calling FBI Agent Thomas McLean. After more than two years, the woman was arrested and convicted for an apparent Ponzi scheme. Skinner again states he was never the subject of any investigation. May 24, 1984: In Merit, Skinner states he first met Merit on this date after being called by a friend and "asked to see some people" (trans. pp. 147-148, 170). Present were H.V. Spillman (his high school teacher), and Wendy Aiken (his friend). Skinner stated he was introduced by Scott Schuber, an earlier acquaintance, while Tom Leding was present (trans. 149). Tom Leding described by Skinner as "on the board of Oral Roberts University or Foundation," had according to Skinner invested with Tracon, a business owned by Merit (Id. p. 50). Merit stated to Skinner that he owned an airline

("Coral Air") in the Caribbean, and sought from Skinner (then 19 years old) a $300,000 loan from Skinner for Tracon, a gold mining venture. Skinner posed as an heir to a fortune. May, 1984: In Merit, Skinner stated he called a federal judge named O'Brien in Saint Croix about Merit and Coral Air to "research" the company. May 25, 1984: In Merit, Skinner stated "the next day" he traveled to the Tracon site, and was given about "six inches" of documents by Merit. "Tuesday or Wednesday of the following week" Skinner alleged having dinner with Sam Merit and his wife. The "day after dinner" Skinner alleged he had another conversation with Merit, then called Tulsa FBI Agent Thomas McLean "because of inconsistencies in the data." 1984: In Merit trial (1991) Skinner testified that he "had no legal problems with the criminal justice system at the time" he met Merit (Id. p. 84). The "next day" after Skinner called the FBI, Skinner began recording conversations with Merit at the

instruction of FBI (Id. at 159). May 31, 1984: Sam Merit places call to Skinner in Oklahoma "for the purpose of executing his scheme to defraud" (Id. p. 52). Skinner records call. 1984: Skinner meets with Merit to discuss "$300,000 loan" for Tracon. Skinner and Gary Magrini. Skinner and his stepfather - an IRS agent assigned to DEA - both travel to Tracon site (the second trip by Skinner, this time as FBI informant). Magrini was asked by FBI to accompany Skinner (Id. p. 52). June 8, 1984: Gordon Todd Skinner established as an informant for the FBI Oklahoma City field office. July 13, 1984: Skinner's 20th birthday. November 6, 1984: Gordon Todd Skinner opens foreign currency options trading account at Financial Operations Group (FOG) in Philadelphia, by fictitiously convincing FOG that he was an active trader and managed a large inheritance. January 3, 1985: Skinner begins trading with a $5,000 deposit to FOG. FOG extends credit line based on Skinner's assertions

of significant wealth. Skinner's poor trades against foreign currency options quickly develop in to a $1,500,000 loss and FOG demands payment. Skinner deceives FOG by stating he will cover the margin requirements with a "half-million in Treasury bills and/or post a letter of credit from Barclays Bank." Skinner further advises FOG that "$250,000 is on its way from Bank of America," then later states to FOG that the had to divert the $250,000" to handle margin call from another broker. All of Skinner's allegations are fictitious. March 28, 1985: Skinner, now representing himself as CEO of "FINEX" and principle of Gardner Industries, Inc., tells FOG that he will meet the margin call instead by means of a commission from "Kaiser Steel" or from a "million dollar consulting fee" from "Mr. Warren" or by selling assets in a London Currency exchange. Again, all of Skinner representations are fraudulent. April 1, 1985: Gordon Todd Skinner is interviewed by Tulsa World newspaper,

fraudulently describing himself as holding a seat on the Philadelphia Stock Exchange, acting as a "market-maker" for a brokerage house, and as founder of FINEX, a successful currency trading firm. April 14, 1985: Skinner tells FOG executives that he has no intention of raising the capital and that he is "walking away" from the transaction. FOG sues Skinner and his mother Katherine Magrini in federal court. June 4, 1985: Gordon Todd Skinner deactivated as an informant for the FBI Oklahoma City field office. July 13, 1985: Skinner's 21st birthday. August 6, 1985: Judgment is entered against Skinner, his mother Katherine Magrini, and FINEX for common law fraud in civil proceedings in federal court in the Eastern District of Pennsylvania. November, 1986: Colombian trafficker Boris Olarte arrested in Oklahoma and placed in Tulsa County Jail. Several witnesses state Skinner averred participation in the Olarte case. 1987: Sam Merit and five codefendants arrested for fraud

based on Skinner's recordings for FBI. Count 1 is the June 1984 call by Merit to Skinner. May, 1987: Boris Olarte begins cooperating from Tulsa Jail. June, 1987: Boris Olarte's wife Clara Lacle (who then was residing with Skinner's mother, Katherine Magrini) flies to Aruba with FBI agents to set up Olarte's supplier Abello-Silva. 1987 (approximate): Gordon Todd Skinner assigned DEA NADDIS number: NADDIS# 2002804. July 13, 1987: Skinner's 23th birthday. November 23, 1987: Gordon Todd Skinner arrested in Boston for marijuana, and $18,000 in cash seized. "Charges changed from possession with intent to simple possession," and "dropped completely after 90 days" according to Skinner in later testimony. 1988: Boris Olarte charged with marijuana possession. Olarte reported to offer an individual $20,000 to help him break out of jail by helicopter. July 13, 1988: Skinner's 24th birthday. August, 1988: Skinner stated on this date he was in Jamaica with Dutch national.

January 26, 1989: Gordon Todd Skinner is arrested in lobby of Cherry Hill, New Jersey Hyatt (Camden County) and charged under the kingpin statute, with $1,000,000 bail set for marijuana distribution. DA Lawrence Magid of Woodbury, New Jersey (Gloucester County) discusses at hearing Skinner's connections in several states and his Skinner's prior detention for marijuana importation on Mexican border. Skinner's attorney is Sam Bullock. 1989: While incarcerated, Gordon Todd Skinner meets John Worthy in jail just before Worthy's release, and contacts prosecutor from jail to set up Worthy and two of his associates on marijuana charges. September 11, 1989: Gordon Todd Skinner signs informant agreement with DEA (Confidential Source Form-473). October, 1989: Abello- Silva extradited from Colombia, with substantial pre-trial publicity in the Tulsa World, and "every juror" having heard of the case. Boris Olarte and his wife Clara Lacle both testify against Abello-Silva (Lacle resided with

Skinner's mother Katherine Magrini while cooperating with FBI to convict Abello- Silva to reduce Olarte's sentence). 1989: Gordon Todd Skinner is removed from jail in New Jersey by federal authorities to testify - while in custody - in a civil matter ("not during period of cooperation" Merit trans., Id. p. 155). 1989: Gordon Todd Skinner later is again removed from jail by federal agents and retuned to jail, after being housed in hotels and federal facilities, in order to cooperate in yet another federal criminal case. December, 1989: Gordon Todd Skinner is released from Gloucester County Jail after 11 months in order to cooperate against John Worthy in a New Jersey state case, and against others in an unknown federal case [NB: In the 2003 Kansas trial, Skinner testified that he worked as an informant in Florida from 1989 through 1992, "identifying communications systems for narco- terrorist operations," then changed the years to "'90, '91, '92."] 1990: Skinner purchases marijuana from

John Worthy and two of Worthy's associates, while recording phone calls to Worthy. February 1, 1990: Skinner tells FBI Agent Reno Walker that he was arrested in Boston on narcotics and currency violation charges. Walker does telephonic interview with Skinner regarding the upcoming trial of Sam Merit (Merit was recorded by Skinner in 1984, see above). 1991: "Three or four months" before Merit trial, Skinner's stepfather Gary Magrini, an IRS agent then assigned to DEA, retires from IRS at 50 years of age. 1991: During Merit trial in Arizona, Skinner testifies that he "cooperated in another investigation ... four months prior to this" that "lasted two months" and also "during time in jail in New Jersey." Skinner also testifies that he cooperated with "multiple federal agencies" on a case involving "money laundering" and that he was contacted by a "federal law enforcement agency" while in Gloucester County Jail about another unspecified investigation. 1991: In Merit trial,

Skinner testifies falsely to the jury that in 1985 he was an "engineer" and "market maker" and in "arbitrage." Skinner states that he and his stepfather Agent Magrini were both flown to the Merit trial by the government. 1991: In Merit trial, Skinner testifies against Merit, and talks extensively about several other cases in which he cooperated and received benefits. Skinner testifies that he is cooperating simultaneously in the New Jersey case against John Worthy, but that the New Jersey cooperation is independent of the Merit case. Skinner also testifies that he is cooperating in another, unspecified case (Merit, Id. p. 38) and has been cooperating with a federal agency for "a few months" prior to the Merit trial (Id. p. 117) on two separate investigations (Id. p. 118) that lasted "two months" (Id. p. 119). 1991: In Merit trial, Skinner asks for a lawyer before he will respond to the defense question "... did he approach the government or did the government approach him" (Id. p. 105). Skinner eventually states,

"They contacted me." (while in jail)(Id. p. 111). 1991: In an rare event for a government witness, Skinner in the Merit trial invoked the Fifth Amendment on 52 occasions to prevent self-incrimination during his testimony. Matters relating to Skinner's criminal activity that Skinner refused to describe to the jury - and occurring during the period he also acted as an informant for federal agencies - include but are not limited to: 1. his aliases (Merit trans., p. 75, ln 15-24); 2. aliases in Arizona (p. 76, ln 15-16); 3. aliases in Oklahoma (p. 76, ln 18); 4. aliases in New Jersey (p. 76, ln 19-20); 5. the frequency of his travel to New Jersey (p. 85, ln 3-9); 6. his associates in New Jersey (p. 85, ln 17-18); 7. the profits from his criminal activities being used for bond (p. 88, ln 6); 8. the origin of funds for the property being posting for bond (p. 88, ln 7-9); 9. the origins of $50,000 (p. 88, ln 11); 10. his other premises (p. 96, ln 9-10); 11. his ownership of property (p. 96, ln 11-19); 12. his rental of property (p. 96, ln 19); 13. his

residence in Tulsa (p. 97, ln 8-10); 14. his alleged residence in London (p. 141, ln 15- 17) or the Caribbean (p. 142, ln 5-6); 15. his profession from 1985 through 1988 (p. 142, ln 15-21); 16. the names of his companies (p. 143, ln 10- 21); 17. whether his companies were in the United States (p. 143, ln 24-25); 18. whether his companies were not in the United States (p. 144, ln 1- 2); 19. the kinds of companies he owned (p. 144, ln 3-4); 20. the names of other companies (p. 144, ln 1-2); 21. where the companies were located (p. 145, ln 3-4); whether they were in Tulsa (p. 144, ln 5-6); 23. names of the Tulsa companies and his partners (p. 147, ln 308); 24. Skinner's use of the alias "Finnegan" in currency speculation (p. 172, ln 1-9); 25. the times aliases were used (p. 172, ln 18- 19); 26. his occupation in 1987 (p. 25, ln 9-10); the sources of $18,000 in the first of his two Boston arrests (p. 25, ln 11- 12); and 27. his activities from 1984 through 1991 (p. 26, ln 1-7)
June 13, 1991: Skinner is sentenced to three

years probation in New Jersey case in exchange for testifying against John Worthy and others [NB: Skinner's sentence was suspended with time served (10 months), and discharged in April, 1994.] September 26, 1991: Gordon Todd Skinner is deactivated as informant by DEA (see also Skinner's October 19, 2000 DEA reactivation and June 27, 2001 deactivation). October 21, 1991: Skinner renews his passport in New Orleans, Louisiana. July 15, 1992: Skinner is sued in federal court by Bacardi Capital on behalf of Financial Operations Group (FOG) of Philadelphia. After jury trial in Tulsa, Oklahoma, Bacardi Capital was awarded $4,500,000 in damages against Skinner, FINEX, and Skinner's mother Katherine Magrini for financial fraud. Without assets, Skinner files for bankruptcy. Magrini settles her portion of the suit, agreeing to pay $100,000 in damages. July 18, 1992: Skinner marries Kelly Rothe (Rothe divorced Skinner in 1996). early 1990-late 1992: E. LaVay McKinley, a Skinner associate

in Florida, begins to sell fraudulent offshore bank shares through his various salesmen. 1992: Skinner places multiple recorded controlled calls to McKinley from the Tulsa FBI office. October, 1992: FBI videotapes McKinley in Bahamas, using FBI agent posing as Colombian cartel accountant. McKinley is deported to Miami with two other defendants. December 4, 1992: E. LaVay McKinley, George Jim Conway and Steven Emery indicted. August 28, 1993: Skinner testifies as the informant in United States v. E Lavay McKinley, 58 F.3d 147 (10th Cir. 1995); United States v. George Jim Conway, 57 F.3d 1081 (10th Cir. 1995); and United States v. Steve Emery, 61 F.3d 917 (10th Cir. 1995). All are convicted. August, 1993: Gordon Todd Skinner failed to disclose to the jury in McKinley his concurrent cooperation with - and deception of - multiple federal agencies while he was conducting an offshore banking fraud with McKinley in the period December, 1989 - March, 1992. In opposition to

his testimony in the Merit trial (see above) in 1991 of continuing informant activity, Skinner testified in McKinley that: a. he "became involved" with the government in the McKinley case in April/May 1992 "only after" "200 conversations" with McKinley from late 1989 through April, 1992 (McKinley transcript, p. 40, ln. 13) and during which time he "never contacted the government" (p. 48) even after 20 conversations about the proposed fraudulent "World Fidelity Bank" (p. 106)(note that this period was during Skinner's continuing informant activity with multiple federal and state agencies Skinner described in Merit); b. he then received a call in April 1992 from an SEC agent in Wyoming and allegedly began cooperation at that time (p. 29, ln. 2; p. 83); c. he thereafter made three controlled calls to McKinley from the Tulsa FBI office, with the first call on June 2, 1992, wherein Skinner discussed "the boat," "the records" and Jamaican smuggler "John Morgan" (p. 37, ln

19); d. he had worked with McKinley for "two years" prior to the controlled calls (p. 25, ln 25); e. Skinner testified that "McKinley put up the money for a boat" (p. 67) and that Skinner had received ""118,000 dollars" from McKinley that Skinner used to "cover expenses" to "look for a boat" (p. 25, ln 25) and "top purchase a ship anywhere" (p. 65) to be used as a "floating bank on a ship" (p. 43, ln 2) and involving ownership by a foreign corporation (p. 49) controlled by a "church on Catco Island" (p. 43, ln 2) for "World Fidelity Bank," and for which Skinner made at least 15 trips to port cities to acquire a vessel for the fraud (p. 25); f. Skinner transferred McKinley's banking records to smuggler John Morgan in Jamaica to avoid federal agencies investigation of McKinley in Florida (p. 37-39); and g. Skinner had "many conversations" with Morgan about McKinley's records; and h. Skinner traveled to Jamaica with DEA agents to report on Morgan's activities (p. 38, 62, 66, 72-74). 1995-1996: The John Worthy

case is reversed by New Jersey Supreme Court due to illegal recording of Worthy in New Jersey by Skinner in Oklahoma. 1995: After a reversal and retrial, LaVay McKinley appeals his conviction a second time. July, 1996: Gordon Todd Skinner acquires a decomissioned former Atlas-E missile base in Wamego, Kansas from Richard Dawson of Wichita, Kansas for $40,000 down, paid by Skinner in Traveler's checks. 1996:Gunnar Guinan is arrested for marijuana in Tulsa. after July, 1996: Mike Hobbs, an associate of Skinner since 1990, introduces Guinan to Skinner. Skinner hires Guinan as caretaker of missile base. 1996: Kelly Rothe divorces Skinner. July 24, 1997: Skinner is subject of Kansas Attorney General's subpoena to analyze his long distance telephone calls at the missile base for narcotics activity. (This information is concealed from defense and jury in 2003 Kansas trial, with agents testifying there "was no previous investigation of Skinner." However, after trial the defense

acquired a subpoena from the Kansas Attorney General's office for Skinner's phone records at the missile base. The AG subpoena for Skinner's calls at the missile base was denied as authentic and characterized by prosecutor AUSA Gregory Hough as an "alleged subpoena" in his response to a motion in March, 2005 before the Tenth Circuit. In April, 2005 Kansas Bureau of Investigation General Counsel admits KBI has the phone records but "no other records on Todd Skinner," again suppressing all investigative records and affidavits of KBI agents arising from the subpoena for Skinner's phone records, in addition to the outcomes of the toll analysis.) Summer, 1997: Skinner begins relationship with 17-year-old Kansas residing near missile base. Summer, 1997: Skinner provides an individual with a near- lethal overdose of fentanyl at the missile base. Summer, 1997: Skinner associate Sammy Yazdinfar, a 25-year- old Iranian at missile base, discloses that Skinner is under investigation by KBI. Summer, 1997: Skinner

appears in Taos and Santa Fe, New Mexico and infiltrates ayahuasca ceremonies as a participant during a period in which the Unaio de Vegetal, an established ayahuasca religious group, is under investigation by the New Mexico U.S. Attorney's office (NB: The Supreme Court later established the UDV as an authentic religious group in a seminal decision on religious freedom). September 9, 1997: Skinner provides blotter to babysitter, who reports Skinner to Potawatomie County Sheriff's Office and provides sample. DEA is notified by Pottawatomie Detective Shawn Rolph [NB: Agents at 2003 trial testified "no action" was taken, the report was "not credible," and Skinner "was never under investigation prior to October, 2000."] September, 1997: Skinner appears at Entheogen Conference in San Francisco, and develops relationships in the research community by offering "grants" for research from fictitious businesses and foundations. February, 1998: Gordon Todd Skinner appears

again in San Francisco and "accidentally" encounters William Leonard Pickard for the first time in a hotel lobby while Leonard is visiting from Cambridge, Massachusetts as a research associate at Harvard Medical School and attending the American Academy of Forensic Science meeting. April, 1998: Skinner appears again in San Francisco and overdoses on alleged 2- CB his 17-year- old Kansas friend, then a freshman at UC Berkeley, and another couple at the Mandarin Oriental Hotel. All were hospitalized. . September 30, 1998: Skinner's step-father, IRS agent Gary Magrini, passes away.. April, 1998 (approximate): DEA issues NADDIS number on Gunnar Guinan (NADDIS# 4497195) indicating Guinan - now the "caretaker" at the Wamego, Kansas Missile base - is the subject of a federal investigation (NADDIS is the DEA's database of individuals suspected of being related to activity (Guinan's investigation was suppressed at the 2003 Kansas trial, where agents stated there was no

investigation of activity at the missile base prior to Skinner's alleged October, 2000 calls). April 29, 1999: Skinner engages in manslaughter of Paul Hulebak at the missile base on this date. Skinner stated to the Pottawatomie County Sheriff's Office detectives that Hulebak overdosed on narcotics and was taken immediately to the adjacent Wamego, Kansas emergency facility. However, Gunnar Guinan stated to DEA agents in 2001 that after Hulebak overdosed on provided by Skinner, Skinner repeatedly injected Hulebak with unknown substances, loaded the unconscious Hulebak into a van with Guinan and others and drove 30 miles to a hospital, then refused to enter the hospital, finally returning to the missile base and unloading the still unconscious Hulebak. After many hours of repeated injections of unknown substances into the unconscious Hulebak by Skinner, Hulebak was then taken to the nearby emergency setting in Wamego, five minutes from the missile base, where he was

pronounced dead. Skinner, Guinan and Hobbs (on Skinner's instructions) stated to police in 1999 that Hulebak was brought in immediately. In 2001, Gunnar Guinan first reported to DEA the actual occurrences. Skinner was charged with manslaughter of Paul Hulebak, then the charges were dismissed after Skinner claimed immunity in the 2000 case in Kansas and asserted Guinan's statement was a product of Skinner's immunity (i.e. Skinner first brought Guinan to the attention of DEA: but see earlier NADDIS report on Guinan, indicating DEA already had knowledge of Guinan. Note date of Guinan's NADDIS report coincides with death of Paul Hulebak). In State of Kansas v. Skinner, DEA agent testified that there was no knowledge of Guinan prior to November, 1999, conflicting with Guinan's NADDIS dated April, 1999). November, 1999: Through fraud, Skinner obtains a check for $80,000 from an individual in Southern California and purchases a "C-4" Porsche Boxster. Skinner attempts to cover the

fraud by repaying the individual with a counterfeit check. The individual deposits the check at the Bank of America and Skinner refuses to return the stolen funds. The Porsche's title is placed under the spurious "Wamego Land Trust" that Skinner utilizes to conceal his ownership of vehicles and other property. January 8, 2000: Skinner is arrested at missile base for impersonating a Treasury agent at Harrah's Mayetta Kansas casino. April 12, 2000: Skinner is indicted for Harrah's incident upon investigation by Secret Service, with AUSA Gregory Hough as prosecutor in Topeka, Kansas (the same prosecutor as in the 2003 trial). January-August, 2000: Skinner launders $867,000 at Bellagio and Paris casinos in Las Vegas (with Katherine Magrini, Gunnar Guinan, and others). Disposition of funds remains unknown. February 27, 2000: Currency Transaction Report filed on Skinner by Bellagio. April, 2000: Skinner meets 18-year-old exotic dancer Krystle Cole at

the Cabaret Club in Kansas, and gives her at the missile base. April 21, 2000: Another Currency Transaction Report filed on Skinner by the Bellagio casino. May 5, 2000: DEA report about "Operation Flashback re: lab in missile silo" (DEA-6 Report of Investigation on a third party: obtained by defense after Kansas trial). May 14-16, 2000: Paris Casino Director of Cage Operations Dave Ellis files Suspicious Activity Report on Gunnar Guinan. May 16, 2000: Paris Casino Director of Cage Operations Dave Ellis circulates a Memorandum to all cage employees stating that Gordon Todd Skinner, Katherine Magrini, and others are suspected of being "gaming agents" conducting unusual transactions and advising employees to watch them carefully. May 23, 2000: Family disturbance occurs at home of Leslie Gervat in Kansas City, with her father calling police about suspected 300 pills of delivered in a package from Amsterdam to Ryan Overton. Overton is in yard when police arrive. Gervat's father states

that the pills were obtained from mail he took from Overton's business. Overton denies knowing about the package. May 23, 2000: Kansas City DEA agents open NADDIS file on Ryan Overton (NADDIS# 4960047). May 24, 2000: Dave Ellis, Paris Casino Director of Cage Operations, writes in cage journal: "Heat's off Skinner - Let him do what he wants - anything he wants." Summer, 2000: Skinner invites his attorney Thomas Haney to Las Vegas, where Haney according to Skinner bought back one of Skinner's gambling "markers" for $60,000 at the Paris casino. June 6, 2000: Skinner flies back from Las Vegas to Topeka, Kansas and pleads guilty in federal court to impersonating a federal agent at Harrah's Mayetta, Kansas casino in January, 2000. June 9, 2000: Skinner provides Leonard with Power of Attorney over the missile base, purportedly so that Leonard could ensure sale of missile base and funds for Skinner's children in the event of Skinner's death. Skinner encourages Leonard to use

Skinner's credit card for booking air flights. June 9, 2000: Kansas City DEA agents Watson and Langan do trash pull at Ryan Overton's home and discover mail from Amsterdam. June, 2000: Krystle Cole meets Ryan Overton at rave. July 3-11, 2000: Many calls are placed from Overton's phone to missile base, where Ryan socialized with Krystle Cole, Overton, Guinan and others at base. July 20, 2000 (approximate): Skinner moves stolen lab to missile base with Guinan and Skinner's father (Tulsa chiropractor Gordon H. Skinner). Skinner locates impure by-products and liquids and begins to test for activity by giving samples to Cole, Overton, Guinan and others at base, claiming the degraded product is "ALD-52." July 21, 2000: James Cromwell arrested in Topeka for possession of several grams of , which Cromwell identified as to arresting officer. Topeka newspaper reports Shawnee County Police Department official stating "We don't see that quantity of around here." Eight months

later, the charges on Cromwell are changed to possession of methamphetamine and Cromwell is sentenced to probation. July 25, 2000: Skinner places call to the Department of Justice in Washington, D.C. from the missile base. Skinner leaves stolen lab at the missile base in sealed containers, departs for Mendocino, California and rents house. Skinner then continues to make trips to Las Vegas. After July 30, 2000: While in the Mendocino, California house with Skinner, Ryan Overton instructs Overton's employee Carrie Conway to retrieve 300 pills of from the mailbox of Tanasis Kanculis in Kansas City. Conway reports back that she was followed and discarded the pills, then quits her job at Ryan's business and later appears at Club XO, "very agitated," with possible DEA agent present. Conway, on probation at time of pickup, knew of second shipment by Kanculis to Krystle Cole's home address, as well as Krystle Cole's relationship with Skinner at missile base. August 7, 2000:

Skinner instructs Krystle Cole, Shanna Everhart, and Ryan Overton to drive back to Kansas City. Skinner rents van for trip. August 10, 2000: Krystle Cole's father unwittingly delivers 300 doses of possible from Kanculis's second mailing and meets with Krystle Cole, Ryan Overton and Gunnar Guinan. The is discarded. Ryan Overton puts Krystle Cole and Shanna Everhart in the Holodome/Fairmont Hotel, and goes to Hurricane Club, where bouncers tell Ryan that DEA agents came to the club looking for Ryan. August 11, 2000: The morning after the pickup, Ryan Overton goes to his office with Krystle Cole and Shanna Everhart, while Gunnar Guinan leaves for the missile base in van. Two DEA agents appears at Ryan Overton's business and interview Ryan, while Krystle Cole and Shanna Everhart are in other room. Krystle Cole is on phone with Skinner, who became "very agitated." August, 2000: Gordon Todd Skinner absconds with stereo equipment valued at $150,000, which had been on

consignment to Skinner from Audio F/X of Sacramento, California and which Skinner had refused to pay for or return. Skinner's fraud/theft reported by Audio F/X to Pottawatomie County Sheriff's Office prior to November, 2000, but no charges are filed. August 20, 2000: Skinner withdraws $70,000 from his account at the Paris Casino in Las Vegas. August 25, 2000: Gordon Todd Skinner is sentenced for impersonating a federal agent at Harrah's Mayetta, Kansas casino. Charge is reduced from felony to misdemeanor by AUSA Gregory Hough and Skinner is fined $10,000 (other records indicate date of sentencing was September 26, 2000). September 3, 2000: Paris Casino computer logs show that files were retrieved on Skinner on this date concerning his February-July, 2000 laundering activity. September 3, 2000: Rector Porsche of San Francisco, from which Skinner purchased a C-4 Porsche Boxster by defrauding an individual of $80,000 and providing the individual with a counterfeit check, faxes the

individual a copy of Skinner's account. September 20, 2000: Skinner purchases air tickets to Washington, D.C. via Kansas City for Skinner and his 19-year- old Kansas wife.. September 26, 2000: Alternate date for Skinner's sentencing, with AUSA Gregory Hough reducing charge to misdemeanor. September, 2000 (various dates): Skinner and agents testified in the 2003 trial that during this time Skinner called numerous federal agencies to report an lab, but was "ignored." Skinner and the agents also stated that "late September/early October" was Skinner's first contact with DEA/DOJ, and alleged that Skinner's attorney Thomas Haney went to Washington, D.C. to retain (purportedly with $50,000) a D.C. law firm with DOJ contacts to intervene with DOJ to arrange an interview with DOJ officials and secure immunity for Skinner. Haney carried documents and photographs Skinner provided. October 12, 2000: "First" preliminary immunity granted by DOJ. October 17-18, 2000: Skinner

travels from Mendocino to Sacramento, California to interview with DEA agent Karl Nichols and, according to agents, "initiation of case" began on these dates. October 19, 2000: Gordon Todd Skinner signs a DEA Confidential Source Agreement form (DEA-473 form). October 23, 2000 (or "several weeks before" this date): Leavenworth police officer Ralph Sorrell, on rotation to DEA, stated at the 2003 trial that on or before this date the DEA Kansas City office received a wire from DEA Headquarters requesting purchase of "moon suits" but not specifying lab. October 24-27, 2000: According to Skinner's testimony at 2003 trial, DEA agents encourage Skinner to enter missile base unaccompanied for several days during these dates and set out chemicals to be in "plain view" for agents' eventual "walk-through" so that warrants can be obtained later from the district court judge. October 27, 2000: Skinner and agents deceive resident trustee Graham Kendall about their presence at

property, with DEA agents posing as "buyers" for the missile base. Agents then drive Kendall to Wamego, Kansas to obtain notarized permission to enter and remain on property. Kendall is removed from the missile base property by Skinner and agents, then agents conduct the walk- through and observe chemicals in plain sight. October 28, 2000: Prior to having a warrant, Skinner and agents spend "many hours" at missile base fork lifting military cargo containers with lab to prepare for an anticipated October 31, 2000 "covert entry" warrant. October 31, 2000: Covert entry warrant served at base, and samples removed from liquids in containers. November 4- 5, 2000: Defendants in trial enter premises, discard containers, and load empty containers and sealed tubs on truck for disposal. November 6, 2000: Leonard enters property on foot, opening the military gate with access code provided by Skinner, and cuts through chain on missile base bay door that is sealing door, but is prevented

from entering missile bay due to door being unmovable (unknown to Defendant, Skinner and agents were on property, using the missile base video surveillance system, observed Defendant's approach, and were on the other side of missile bay door holding door to prevent entry). November 6, 2000: Defendants arrested due to Skinner's efforts. Lab and 6 kgs. of precursor seized. November, 2000: Skinner moves from Mendocino, California to Tucson, Arizona with Skinner's 19-year old Kansas wife, Gunnar Guinan, Michael Hobbs, Krystle Cole and others. November, 2001: DEA agent Karl Nichols calls "Long Realty" in Tucson and arranges for Skinner and other government witnesses to stay together during DEA interviews over months in a "luxurious 5-bedroom house with large swimming pool and hot tubs" in the Catalina Mountains overlooking Tucson. House was rented under the name of Skinner's 19-year-old Kansas wife with no credit check due to DEA intervention.

November, 2000 - April, 2001: Skinner lives in Tucson house with other government witnesses and "river of " and other . Skinner during this time conceals at another location in Kansas twice the quantity of precursor (stolen by Skinner with the lab) as was seized at the missile base on November 6, 2000. Skinner prevaricates about the concealed precursor for months, then finally provides most (but not all) of the precursor to federal agents in Oakland, California on January 22, 2001. early 2001: Skinner is granted immunity by the Kansas City USAO as the informant in United States v. Ryan Overton. Skinner also participates in United States v. Tanasis Kanculis in the Northern District of Oklahoma (both cases). Skinner's involvement in these cases is suppressed by the government in the 2003 trial. February 14, 2001: Kansas City DEA agents Watson and Langan interview Krystle Cole at the San Francisco DEA office. Cole states she met Ryan Overton at a rave in Kansas City in June, 2000.

Cole states that Overton worked as a DJ at raves and would supply , and that Overton visited the missile base and would use supplied by Skinner. Cole stated Overton's source was Tanasis Kanculis, who provided Cole and Overton with bank deposit slips to place orders for shipping. Cole's DEA interview was suppressed at 2003 trial. February 26, 2001: "CI" states Ryan Overton's supplier was Tanasis Kanculis. Kanculis arrested in Tulsa, Oklahoma and transferred to Poland for trial on charges there. April, 2001: Skinner fails DEA polygraph about possession of additional chemicals. Skinner then provides another kilogram of precursor and divulges location of unseized tmd equipment at missile base. April/May, 2001: Skinner and Krystle Cole leave Tucson due to arrest of Skinner's distributor Shauna Cox by Tucson MANTIS task force after MANTIS agents stop car driven by Shanna Cox and Krystle Cole. Cole is not arrested. Skinner's 19-year-old wife begins annulment proceedings. April/May,

2001: Skinner moves from Tucson to Seattle with Krystle Cole, and remains in Seattle until eventual his arrest for theft of $150,000 stereo from Audio F/X of Sacramento, California. Skinner repeatedly visits Kansas. May 16, 2001: Gordon Todd Skinner is arrested on State of Kansas warrant for manslaughter of Paul Hulebak in April, 1999 at the missile base. Skinner claims indigence and is released on own recognizance. June 25, 2001: Motion hearing in State of Kansas v. Gordon Todd Skinner concerning the manslaughter of Paul Hulebak by Skinner at the missile base in April, 1999. The Kansas DEA agent in the case, Roger Hanzlik, was questioned by state prosecutor Barry Wilkerson about DEA agents knowledge of Gunnar Guinan at the missile base in 1999 relative to the Hulebak manslaughter, and the subsequent interview of Guinan by DEA in February, 2001 in Tucson. Hanzlik denied any knowledge by DEA of Guinan prior to November 6, 2000 (NB: this testimony conflicts

with DEA investigation and opening of Guinan's NADDIS file in April, 1999. See above)> DEA's lack of knowledge of Guinan provided a legal basis for dismissal of manslaughter charges against Skinner. 2001: After several hearings, Skinner's manslaughter charges are dismissed due to Skinner's immunity in the case. However, Skinner's attorney Thomas Haney and DEA agents do not disclose to the state court a November 2, 2000 letter from DOJ to Haney stating that Skinner did not have immunity for "acts of violence." The DOJ statement is not provided to State of Kansas Judge Steven Roth (NB: After dismissal of this case involving repeated injections of unknown substances by Skinner into the unconscious Paul Hulebak, Skinner in 2003 similarly injects large quantities of unknown substances into another victim - 18-year-old Brandon Green - after kidnapping, binding and torturing Green for six days (see below). July, 2001: In a letter to DEA provided to the defense in the 2003 trial, Nevada Gaming

Control Board agent Rachel Martines disclosed her possession of letters from DOJ describing Skinner's activity as an informant. 2001: Civil damages of $150,000 are awarded by a Kansas state court to Audio F/X due to default by Skinner in not responding to suit over Skinner theft of stereo of same value. September 4, 2001: Tanasis Kanculis incarcerated in Poland for after pleading guilty. November, 2001: Ryan Overton arrested for 600 doses of ("offense concluded in September, 2001"). 2002: Skinner's attorney, Thomas Haney, sues Skinner for $175,000 in overdue legal fees and $200,000 in damages from Haney's injury at missile base in July, 2000. Full damages awarded. Haney joins other civil litigants with damages against Skinner totaling $750,000, all uncollectable from Skinner. 2002: Skinner rents a series of penthouses at the Metropolitan Towers in Seattle for $5,000 each per month. 2002: While residing in Seattle penthouses with Krystle Cole, Skinner impersonates Gordon Skinner, a

British physician of a similar name who does AIDS research. Skinner signs lease using his father's identity and references (Gordon H. Skinner, a Tulsa chiropractor). Skinner also describes himself to other neighbors as a "chess master" and military general. July, 2002: Skinner's several neighbors, alarmed at Skinner's bizarre behavior, do internet searches on "Dr. Gordon Skinner" and discover an online plea by Leonard and the defense team for information as to Skinner's whereabouts. Skinner's address was sought in order to subpoena him for the 2003 Kansas trial in the event the government choose not to produce him. Multiple neighbors describe his activities. Upon request, neighbors provide a photograph of Skinner taken by one neighbor in an elevator at the Metropolitan Towers, thus confirming Skinner presence (see above photo on the left). July, 2002: Skinner reported to Sgt. Friese of the Seattle Police Department by irate parent for supplying to his teenage son. July, 2002: During

the Skinner's Seattle period at the Metropolitan Towers. Skinner is dealing "4000 hits of per week" according to Krystle Cole in her DEA interview of July, 2003, wherein Cole named Skinner's Seattle distributors. July, 2002: Charges filed by Pottawatomie County (Kansas) police against Skinner for theft of $150,000 stereo. July, 2002: Skinner is arrested by Seattle police for Kansas theft of $150,000 stereo from Audio F/X (case is dismissed - after Skinner's testimony at 2003 trial - due to belated filing of charges by Kansas police). Skinner granted $10,000 bail. August, 2002: Gordon Todd Skinner impersonates a physician in a Seattle courtroom in case. Video of Seattle proceeding not permitted to be shown to jury in the 2003 trial. August, 2002: State of Washington pharmaceutical control board issues order to Skinner to cease prescribing medications (order includes names of about 20 young people). December 11, 2002: Gordon Todd Skinner signs lease for 58th floor penthouse at Citiplex

Towers in Tulsa for $4500 per month, using the name Todd Rothe-Skinner. January 7, 2003: Skinner's father, Gordon Henry Skinner (then 65), is arrested at 4:30 AM after he refuses entrance since 12:30 AM to Tulsa police, who are investigating a report of domestic abuse. The Tulsa Special Operations Team communicates with the elder Skinner until 4:15 AM, when Skinner and Karla Castelano emerge from the house. January 8 - April 3, 2003: Gordon Todd Skinner testifies for eleven days as the government's principle witness in Kansas trial. Agents state there was no investigation of Skinner prior to October, 2000 (but see Kansas Attorney General's investigation of Skinner in 1997). Skinner extensive history as an informant is also suppressed. April, 2003: Ryan Overton (while incarcerated) and Shanna Everhart offer to testify against Skinner, but are denied immunity by the prosecutor Gregor Hough. Krystle Cole is subpoenaed by the defense but asserts on Skinner's advice her Fifth

Amendment privilege. A request for immunity for Cole is denied by the prosecutor, who described Cole as not credible (but see Cole's use an a credible government witness in State v. Skinner, 2003). All are prohibited from testifying for the defense. April, 2003: Lavay McKinley, against whom Skinner testified in 1993, is released from prison. May, 2003: Skinner overdoses several teenagers in Tulsa, Oklahoma while providing free in his hotel suites. Krystle Cole, now 20 years old, begins relationship with 18 year old Brandon Green. June, 2003: Brandon Green arrested for in Lebanon, Missouri and offers information on Skinner. June 9, 2003: Krystle Cole and Brandon Green file complaints against Skinner in state court for violence, each requesting a separate protective order against Skinner. In her complaint, Cole states that Skinner previously had dislocated her jaw, grabbed her by the neck and thrown her to the ground, attempted to smother her, stalked her, and threatened to kill

her and others. Cole indicated she had been separated from Skinner since February-March, 2003 (NB: This period of alleged separation is during the 2003 Kansas trial. Cole also testified in State v. Skinner in 2006 that she daily reviewed court transcripts of testimony in the 2003 trial provided by DEA Agent Karl Nichols while residing with Skinner during trial). June 12, 2003: Krystle Cole and Brandon Green report Skinner to Kansas City DEA office (Agent Roger Hanzlik) and Tulsa DEA office (Agents Douglas Kidwell and DeWayne Barnett). Cole also states Skinner had an laboratory in "Building 3" of Skinner's mother's small business Gardner Springs, Inc. Green stated he distributed for Skinner. June 20, 2003: Source of Information ("SOI") states to DEA that he distributes for Skinner. SOI provides samples from Skinner for DEA analysis. SOI reports Skinner's concealed lab. DEA begins cross-file on Skinner (a new investigation). June 28, 2003: Skinner overdoses teenager Chris

Wright of the AmerSuites Hotel in Tulsa. Wright is admitted to St. Joseph's Hospital Emergency Room. July 1, 2003: SOI further describes Skinner's laboratory. July 4, 2003: Skinner kidnaps, binds, gags, assaults and tortures 18-year- old Brandon Green over six day period in Tulsa, Oklahoma and Houston, Texas, assisted by Krystle Cole and William Hauck. Green is repeatedly injected by Skinner with unknown substances (compare manslaughter of Paul Hulebak, above). Skinner had met Hauck while both were incarcerated in a New Jersey jail in 1988, with Hauck convicted on charges of sex with a minor. July 8, 2003: Skinner and attorney H.I. Aston visit DEA in Tulsa to ask why Skinner is being investigated by DEA. This interview occurs while Skinner - unknown to the DEA agents - has Brandon Green bound, gagged, assaulted and ged at the DoubleTree Hotel, guarded by his associate William Hauck and Krystle Cole. Cole and Green previously had initiated the DEA investigation on Skinner

on June 12, 2003. July 8, 2003: DEA interview of 17-year- old Betty Stetler concerning Skinner's distribution to Stetler and others, and Wright's overdose and emergency room admission. July 9, 2003: Email sent from Tulsa AUSA Litchfield to Topeka AUSA Hough stating Skinner "popped up" for a DEA interview, and "Frankly, he sounds a little spooky." July 10, 2003 (approx.): Skinner, Cole and Hauck blindfold the gagged and bound Brandon Green, injects him with , and move him in a box on a luggage carrier from the DoubleTree suite to the trunk of a car, then transport him to a motel in Houston, Texas, where the torture of Green continued. July 10, 2003: Email from AUSA Hough to AUSA Litchfield stating that a memo had gone out from agent Karl Nichols to "all of DEA" advising them never to use Skinner as a CI again. July 10, 2003: DEA interview of Mandy Ray, who provides samples of Skinner's she had acquired from Kristi Roberts. July 11, 2003:

DEA interview of Laura Ball and Dena Dobbs, who brought in Kristi Roberts to DEA. Roberts was disoriented from Skinner's overdoses in this interview. Ball and Dobbs discussed Skinner's distribution to young people and the need for his arrest. July 14, 2003 (approx): Skinner instructs accomplice William Hauck to dump the unconscious Brandon Green in a field near Archer City, Texas. Green later crawls to freeway, and attracts highway patrol. Green is admitted to intensive care at a local hospital. July 14, 2003: DEA interview of Kristi Roberts concerning Skinner's kidnapping of Brandon Green and Skinner's distribution. July 16, 2003: Email from San Francisco DEA agent Karl Nichols to AUSA Litchfield stating he spoke with Tulsa DEA agent Doug Kidwell "before Skinner came in" on July 8, 2003. July 16, 2003: Skinner's accomplice in the kidnapping, William Hauck, reports Skinner to DEA and is interviewed. July 18, 2003: DEA interviews kidnapping victim Brandon Green. July 27,

2003: Skinner marries Krystle Cole at his mother's house in Tulsa. Cole later reports she was disoriented from use during the brief ceremony. July 27, 2003: DEA surveillance of cooperative SOI meeting with Skinner and Skinner's cousin, Michael Sean Chasteen. July 31, 2003: DEA again interviews Skinner's accomplice William Hauck. August 1, 2003: After victim Karla Castellano refuses to testify, Skinner's father Gordon H. Skinner, a Tulsa chiropractor, has four felonies dropped (assault and battery with a dangerous weapon, kidnapping, threatening a violent act and possessing a firearm in commission of a felony). Gordon Henry Skinner pleads to no contest to punching Castellano on December 11, 2002 and to another count of domestic assault and battery. August 30 2003: Skinner is arrested for 352 grams of at the Burning Man festival in Reno, Nevada, and booked at Pershing County Sheriff's Office. September 3, 2003: Skinner is indicted in Tulsa for kidnapping and torture of

teenager Brandon Green. September, 2003: Leonard's attorney Billy Rork contacts Wamego Telephone Company concerning possible electronic surveillance of missile base without court order, leading to the phone company's production of a 1997 Kansas Attorney General's subpoena for Skinner's phone records at the missile base involving a narcotics investigation of Skinner (previously unknown to the district court, jury or defense in Leonard's trial). November 25, 2003: Leonard and Clyde sentenced in Kansas to life and 30 years, respectively. March, 2004: Skinner convicted in Nevada for possession with intent to distribute. Skinner is sentenced to four years (less than the guidelines). September 9, 2004: Skinner is returned to Tulsa and arraigned for kidnapping. November, 2004: Skinner asserts immunity defense, as he did with manslaughter charges in Kansas for death of Paul Hulebak at the missile base. January 25, 2005: Skinner's preliminary hearing for the kidnapping and torture of

Brandon Green (one journalist characterizes the disclosures at the hearing as suggesting "an even darker picture" of the kidnapping). February 20, 2005: Krystle Cole contacts Leonard's attorney Billy Rork and states she has an offer from the government to testify against Skinner in exchange for no incarceration for participating in the kidnapping and torture of Brandon Green. March 28, 2005: Affidavit received from Krystle Cole stating that Leonard was innocent and was set up by Skinner. March, 2005: Defense discovery of unredacted NADDIS numbers on a DEA interview of Krystle Cole, leading to the first knowledge by defense of DEA investigation in 1999 concerning missile base caretaker Gunnar Guinan. April 5, 2005: KBI General Counsel Jane Nohr - who stated in July, 2004 that "the KBI has no records on Skinner" - now admits after being confronted with a copy of Assistant Attorney General's 1997 subpoena for Skinner's phone records, that the phone records indeed

were subpoenaed for Skinner and the missile base in 1997. June 9, 2005: An unsolicited partial copy of Skinner's pretrial motion of April 1, 2005 received by the defense from an unknown individual. The motion details many suppressed interviews with witnesses against Skinner (see witnesses Stetler, Wright, Dobbs, Ball and Roberts, above) and confirms his informant activity in the federal cases against Ryan Overton and Tanasis Kanculis (also suppressed by the government at the Kansas trial). Full copy of motion is requested and received from Skinner's attorney Kevin Adams. August 9, 2005: Skinner's motion asserting immunity is denied. Supplemental motion revealed that Skinner recorded federal agents' phone calls prior to his July, 2003 interview. September 1, 2005: Received review of Krystle Cole's interview with tripzine.com in which she stated that Skinner was overdosing people at Burning Man with . April 4, 2007: Pre-Sentence Investigation Report of Krystal Cole is filed in

Tulsa District Court (click here to read report on Cole prior to her sentencing). Within the report, kidnapping and torture victim Brandon Green states (Report, p. 4) that after kidnapping by Skinner and Krystal Cole, he was: injected with unknown chemicals and in his penis, testicles, back, arms and legs. hit in the groin repeatedly. kicked in the groin until he blacked out. forced to drink an unknown substance and was also forced to swallow some form of "parasitic eggs." not given any food and very little fluids during his captivity. bound with duct tape by the hands and feet and beaten repeatedly. duct-taped across the mouth to prevent his calls for help. tied around the testicles and/or penis with a telephone cord and suspended from a bed. pulled with the telephone cord around his penis until cartilage "popped." subjected to a deep cut into his penis with a knife or razor blade. subjected to bleach being poured over his groin area. "brutally shaved" by Krystle Cole of his scalp, eyebrows, genitalia and his entire body.

subjected to severe trauma to the rectum with an unknown instrument. April 4, 2007: Krystle Cole's Pre-Sentence Investigation Report also cites torture victim Brandon Green as reporting a collapsed lung, damage to the left side of his body, sexual dysfunction, severe memory loss (click here for Report p. 5-8). "I was kidnapped in July, 2003, and today in almost February, 2007. Almost four years have gone by, and I'm still in constant agony in multiple areas across my body. It kills me to think that Krystal could be released from probation in half the amount of time that I have been suffering. I beg the courts to be harsh on Krystal and charge her with the maximum penalty available. Krystal A. Cole-Skinner handed me over to complete evil. Krystal A. Cole-Skinner encouraged and enjoyed the physical, sexual and emotional torture inflicted against my will, for numerous days. Krystal is very sick and very young. She has the propensity to kill and is arrogant enough to follow through with it. Her only regret is

getting caught, and probably wishes she had finished me off there in the field." (See Report, p. 10.) Question from Pre-Trial Investigator: Do you believe the Defendant is a serious threat to the community? Answer: "Yes, very much so. She is young, evil and enthusiastic. She still has a lot of damage she could do, if not punished correctly the first time. Just as her predecessor/husband, each time she slides through the court system successfully, she will become more brazen and more confident." (See Report, p. 10-11, and see January 5, 2011 indictment of Krystal Cole's advertisers in State v. Sloan, below.) Question from Pre-Trial Investigator: What type of punishment, in your opinion, so you feel is necessary for the Defendant to receive? Answer: "Incarceration. People are creatures of habit. I would bet the farm she is currently living off illegally made money, and is either committing or scheming several large crimes. She has grown up in a life of easy money, answering to no one, and is

lying to everyone. I would be too scared not to incarcerate Krystal A. Cole-Skinner. For somebody to commit the types of crimes she has committed, and to show no real signs of emotions, she is a loose cannon and is a threat to any community, especially a threat to unsuspecting males." (See Report, p. 11.) Additional comments by torture victim Brandon Green in the Pre-Trial Investigation Report on Krystal Cole: "She was the first and only friend I took home to my parents. I trusted Krystal with everything ... I had a boyish optimism about life. I was quick- witted and mentally sharp. And above all else, I had no idea such evil, like Krystal, even existed...In contrast with the way I feel Krystal was portrayed throughout the court process, I want the court to know that Krystal was a strong willed, intelligent woman with full control of her emotions and psychological abilities. She is the definition of wicked and manipulative. Unfortunately for society, Krystal has the capability to play or

maneuver a person or situation just as someone would engage in chess. One person Krystal played was Gordon Todd Skinner. She always had the upper hand in the relationship. Krystal was not controlled or kidnapped by (Skinner)" (See Report, p. 8-9.) "Many nights Krystal would sit in front of the mirror and would repeat to herself what she would say if ever caught for her and (Skinner's) illicit activity. Months after my body was discovered in Texas and the three were identified and located, the first assistant D.A. on the case had me come into his office to discuss the court case. When Krystal's pre-memorized story about her involvement with (Skinner) was regurgitated by (attorney) David Robertson, my stomach dropped and I felt faint: 'She was just a who got caught up in (Skinner's) manipulation and mind control' (italicized in the original)." (See Report, p. 9.) April 4, 2007: Krystal Cole's Pre- Sentence Investigation Report also cites statements of torture victim Brandon Green regarding Krystal Cole's

activities prior to and after the kidnapping: "After my body was dumped, (Skinner) and (Cole) returned home and proceeded to contact several of my former friends and associates. She would ask them if they had heard from Brandon ... In my humble opinion, Krystal's involvement was greatly played down throughout the court proceedings. The moment I heard (attorney) Mr. Robertson express to me his feelings in regards to Krystal and it was verbatim the phrase Krystal would always practice in front of the mirror. I realized at the point Krystal's true side would never be brought out in court ...To think that my high school felony charge for an unprescribed pain medication carried a worse penaltythan Krystal's charge, makes me cringe. She always said, the two worst things that can happen to her are spending time in jail and./or getting a felony conviction. I pray earnestly that she gets both." (See Report, p. 10.) "Here are a few things probably never mentioned about Krystal's

premeditation and the execution of the of the plans in regards to my kidnapping: Although she was broke, had no steady income and had previously helped me financially, Krystal secretly paid my apartment's rent several months ahead. She had told the landlord that her and I (sic) were about to go to California to take care of her dying father. I found this information out after the fact, and it still took me several years to realize she paid up my apartment so nobody would be looking for my body. Two weeks prior to my kidnapping Krystal had spent a lot of time and energy in the search for an 'anointed' person to create her a pure white prayer robe that was designated for a special occasion. In sick twist of humor, Krystal wore the same prayer robe I helped design to perform seances over my body while I was being tortured. She would chant prayers over my body, offering up my soul as a sacrifice to Satan." (See Report, p. 9.) January 5, 2011: Krystal Cole is the primary government witness

on the indictment of her website advertisers in the matter of State of Kansas v. Clark Sloan (Jefferson Country, Kansas). Sloan and another party were indicted on twenty counts involving acts on or about February 4, 2010 in "unlawfully, willfully and feloniously use a communication facility in committing, causing, or facilitating the commission of a felony [] to with: Distribution or Possession of Mescaline (Count I), Bufotenine (Count II), Dimethyltryptamine (Count III), Lysergic Acid Amide (Count IV), 5-methoxy- N, N-dimethyltryptamine (Count V); and Possession with Intent to Distribute Mescaline (Count VI), Bufotenine (Count VII), Dimethytryptamine (Count VIII), Lysergic Acid Amide (Count IX), 5-methoxy-N,N- dimethyltryptamine (Count X). Click here to read indictment of Sloan as an advertiser on Krystle Cole's website. January 5, 2011: Krystal Cole is the primary government witness in Kansas v. Sloan in additional counts against her website advertisers in which the

indictment states Sloan "solicited and paid Krystle Cole $500 in cash in both 2008 and 2009 for her to advertise for BBB ("Bouncing Bear Botanicals") on her website and to produce 'how to' videos intended to increase BBB sales of controlled substances," viz. Mescaline (Count XI), Bufotenine (Count XII), Dimethyltryptamine (Count XIII), Lysergic Acid Amide (Count XIV), 5- methoxy-N, N-dimethyltryptamine (Count XV), and related Counts XVI, XVIII, XVIII, XIX, and XX involving Krystal Cole receiving payment from her advertisers to produce 'how-to' videos concerning use of s. Click here to read indictment of Sloan as an advertiser on Krystle Cole's website. January 5, 2011: Krystal Cole participates in the multiagency investigation of her advertisers, and is the principal witness in their indictment, with agencies including Kansas Bureau of Investigation, Johnson County Crime Lab, DEA Task Force, Kansas Department of Revenue, Food and

Administration, Heart of America Chapter Computer Forensic Lab, Leavenworth Police Department, Allen County Sheriff's Department, Garnet Police Department, and Jefferson County Sheriff's Department. Click here to read indictment of Sloan as an advertiser on Krystle Cole's website. September 17, 2012: The federal district court in the Northern District of Oklahoma denied Gordon Todd Skinner's appeal in Skinner v. Addison, Case No. 11 -cv- 0382-CVE-TCW (N.D. OK), stating: "Gordon Todd Skinner and his codefendant Krystle Ann Cole kidnapped and tortured eighteen-year-old Brandon Green beginning July 3, 2003, at the Double Tree Hotel located in downtown Tulsa, and ending July 11, 2003 in a field outside Texas City, Texas." September 17, 2012: The federal district court in the Northern District of Oklahoma stated that "on September 11, 2003 Krystal Cole was charged with Conspiracy to Commit Kidnapping (Count I) and Kidnapping (Count II)," and "on November 15, 2006 Krystal

Ann Cole entered a plea of nolo contendere to Accessory After the Fact Kidnapping (Court II); the Court I charge of conspiracy was dismissed. On March 27 Krystle Cole received a deferred sentence." (in exchange for her testimony as a government witness). The Court further noted Skinner "introduced Cole to DEA agents." September 17, 2012: The federal district court in the Northern District of Oklahoma stated that "Gordon Todd Skinner and his codefendant Krystle Ann Cole ...kidnapped and tortured eighteen-year-old Brandon Green beginning July 8, 2003 at the Doubletree Hotel located in downtown Tulsa, and ending July 11, 2003 in a field outside Texas City, Texas. Skinner (with the assistance of Krystle Cole) injected Green's penis with a substance that (Skinner) said would cause Green's genitals 'to shrivel up and fall off' ... (Skinner) punched Green in the genitals, grabbed Green by the base of his genitals, lifted him up and dropped him, and used a syringe to inject (unknown substances) into the side of

Green's penis ... (Skinner) also stated that he grabbed a phone cord and wrapped it "around Green's dick and jerked it up real hard until I heard the cartilage snap." Krystle Cole also testified at trial. On July 8, 2003 the group (Skinner, Krystle Cole and another codefendant) checked out of the Doubletree Hotel and traveled to Houston, Texas. Green remained nearly unconscious during the trip. On July 11, 2003, Skinner again injected Green, and Krystle Cole and Earnest Hauck dumped an unconscious 'completely incoherent' Green in a field outside of Texas City. After a week in the hospital, Green was released (but) unable to walk and remained in a wheelchair for months." ShareThis Copy and Paste - See more at: http://freeleonardpickard.org/Skinner-Timeline.html#sthash.IMkSIxP3.dpufGovermen t Misconduct Revealed Thus Far Motion to Dismiss For Outrageous Government Conduct And Prosecutorial Misconduct Memorandum and Order 1 Memorandum and Order 2

Renewed Motion To Suppress Thus far: Extensive allegations of government misconduct arose during and after the trial. The prosecution took 8 weeks to present its case. The defense was prevented from presenting its case after less than three weeks, and the proceedings were ordered terminated. At least four defense witnesses were not allowed to testify (See Unusual Events At Trial) In a closed hearing outside the presence of the jury, primary government witness Skinner - called by the defense and under immunity - testified that: Government agents instructed him to set up laboratory items around the missile base so that agents could 'discover' them on their walk through and obtain probable cause from the magistrate. Agents physically opened a can of E.T. during the walk- through, and agents/Skinner forklifted 34 military containers with the suspected lab for many hours "in preparation" for obtaining a warrant. The forklifting and purposeful arrangement of the

lab was later confirmed upon cross-examination of agents, who had neglected to inform the magistrate who issued the warrant of their illegal activity. Agents installed video/audio surveillance before having a warrant to do so. Agents refused to consider documents indicating Leonard had standing to challenge constitutional violations concerning search and seizure. (See Order on revised suppression motion) Many agents remained at the base for days before the warrant was served. In order to obtain consent to enter, the permanent resident at the base (and the title holder of the property) was deceived by agents concerning their identity, although agents may employ deception against a suspect, they may not do so against a private citizen not under suspicion. Agents were on the property by the consent of their own immunized government agent Skinner, raising another Fourth Amendment issue. Although Skinner "voluntarily" went to the DEA, he was a government agent at the time of the consent to

enter on October 27, 2000. He had previously occupied the property and put items in plain-view for the walk-through. The court ruled that Skinners testimony on government misconduct was not credible, but Skinner's testimony against Leonard was not thrown out. Agents denied all of their primary informant's assertions of their misconduct. However, Skinner was not charged with perjury. Agents have threatened Skinner with perjury charges to influence his testimony. However, such charges are unlikely due to their effect in the event of a retrial. Other testimony concerning government misconduct was made outside the presence of the jury, including: Leaking of defense strategy to the prosecution by a court employee. Violation of sequestration orders by agents. Attempts to influence Skinner's testimony by agents/prosecution. In a 'serious' act of government misconduct, Leonard's computer address book was manipulated before being printed out and submitted to the jury. 25

references and history of contact with DEA personnel for policy research were purposely removed by government agents before being made into a jury exhibit. Upon discovery of this manipulation of evidence, the court ordered the records produced, and decided the government deception was then 'not prejudicial'. No other sanctions against the government for manipulation of exhibits were considered. (See Court's Order1 and Order2). Similarly, records of casino activity concerning Skinner's laundering of at least '$750,000' at the Bellagio, Paris and Mirage Casinos in Las Vegas were produced but the copies of 'funds paid out' from this activity were removed by the prosecution before the exhibit was presented to the jury, even though the defense repeatedly challenged the prosecution to produce such records as exculpatory. (See reply from Bellagio). As another example of the government manipulation of exhibits, Skinner's American Express activity was submittted to the jury but

the period from late September until mid November after the lab seizure was altered and removed (See American Express records) The jury was prevented from viewing a videotape of Skinner in a Seattle court room, posing as an MD and addiction specialist before a judge in August, 2002. Skinner admitted he has 'lied to the DEA" about his possession of the bulk of the precursor for months after initiating the arrest of Leonard. The prosecution revealed only in mid-trial Skinner's extensive activity as an informant, and only after discovery by the defense and order by the court. Motions for the new trial based on cumulative error and misconduct have been submitted and denied by the government. (See motion for acquital 360). Additionally the motion to dismiss on the basis of outrageous government conduct and prosecutorial conduct or request for a mistrial were also denied (See motion for dismissal 322) as well as a motion to suppress based on new evidence (See motion to suppress 321).

Skinner's trial date for $100,000 stereo theft from AudioF/X has been moved to June 30th, 2003. On this point, I beg to be distinctly understood. No person can use tobacco, in the least degree, without injury. ~ William Andrus Alcott, M.D., The Use of Tobacco: Its Physical, Intellectual, and Moral Effects on The Human System (1836). XVI: Who Suffer Most from Tobacco I'm an idiot anyway, but sometimes you feel like an idiot times ten when you're stoned. ~ Billie Joe Armstrong Tobacco neither altereth health nor hew, Ten thousand thousand know that it is true. ~ William Barclay, Nepenthes, or the Vertues of Tobacco (1614). Look, just in the context of school, we know that marijuana negatively affects concentration, focus, memory and retention. Hello out there? Concentration, focus, memory and retention. If you were in school, arguably, concentration, focus, memory and retention are important things. ~ William John Bennett, CNN TV "Access" (2 May 2002). William Bennett:

Today's pot is more dangerous The problem is fundamentally a moral problem -- in the end, a spiritual problem. It is seeking meaning in a place where no meaning can come. ~ William John Bennett, Speech at the Southern Baptist Convention, New Orleans LA (11 June 1990). I don't do coke or crank or any other sh[*]t like that -- I smoke pot. It's just a plant, and I get sh[*]t for that. They say are , which is bullsh [*]t. ... I'm not tellin' people that they should smoke pot, too -- that would be wrong and hypocritical -- but I do support people's freedom to do what they choose. ~ Chuck Billy The sweet post-prandial cigar. ~ Robert Williams Buchanan [M]ore people die every year as a result of the war against than die from what we call, generically, overdosing. ~ William F. Buckley, Jr., in National Review (1 July 1996). The War on is Lost The anti- marijuana campaign is a cancerous tissue of lies, undermining law enforcement, aggravating the problem, depriving the sick of needed help, and

suckering well-intentioned conservatives and countless frightened parents. ~ William F. Buckley, Jr., in National Review (29 April 1983). [T]he cost of the war is many times more painful, in all its manifestations, than would be the licensing of combined with intensive education of non-users and intensive education designed to warn those who experiment with . ~ William F. Buckley, Jr., in National Review (1 July 1996). The War on is Lost Those who suffer from the abuse of have themselves to blame for it. This does not mean that society is absolved from active concern for their plight. It does mean that their plight is subordinate to the plight of those citizens who do not experiment with but whose life, liberty, and property are substantially affected by the illegalization of the sought after by the minority. ~ William F. Buckley, Jr., in National Review (1 July 1996). The War on is Lost A junky runs on junk time. When his junk is cut off, the clock runs down and stops. All he can do is hang on and wait for

non-junk time to start. ~ William S. Burroughs, Junkie (1953). Chapter 10 I feel that any form of so called psychotherapy is strongly contraindicated for addicts. ... The question "Why did you start using narcotics in the first place?" should never be asked. It is quite as irrelevant to treatment as it would be to ask a malarial patient why he went to a malarial area. ~ William S. Burroughs, The Soft Machine (1961). I had not taken a bath in a year nor changed my clothes or removed them except to stick a needle every hour in the fibrous grey wooden flesh of heroin addiction. ... I did absolutely nothing. ~ William S. Burroughs, The Naked Lunch (1959). Introduction, Deposition: Testimony Concerning a Sickness I have learned the junk equation. Junk is not, like alcohol or weed, a means to increased enjoyment of life. Junk is not a kick. It is a way of life. ~ William S. Burroughs, Junky (1977 edition). Prologue I'm running out of everything now. Out of veins, out of money. ~ William S.

Burroughs, Lee's Journals (1955). Junk is the ideal product ... the ultimate merchandise. No sales talk necessary. The client will crawl through a sewer and beg to buy. ~ William S. Burroughs, The Naked Lunch (1959). Introduction, Deposition: Testimony Concerning a Sickness Junkies have no interest in sex and they have no interest in other people except as suppliers of junk. They go around looking younger for a few days. Then they need more. ~ William S. Burroughs, Just One Fix (1992 single). Quick Fix My experience as an addict was very useful to me as writer: the whole syndrome of addiction and withdrawal and the extensions of that and other forms of addiction. It gave me a great deal of material. A writer can profit by something that someone else may not be able to profit from at all. Yet they were very disagreeable experiences. Very boring experiences. ~ William S. Burroughs (1978 interview), Journal of Psychoactive (Jan- Mar, 1981). William Burroughs: A Sketch Our

national is alcohol. We tend to regard the use any other with special horror. ~ William S. Burroughs, The Naked Lunch (1959). Introduction, Deposition: Testimony Concerning a Sickness (1) Never give anything away for nothing. (2) Never give more than you have to give (always catch the buyer hungry and always make him wait). (3) Always take everything back if you possibly can. ~ William S. Burroughs (on the basic principles of dealing heroin), in Evergreen Review, Vol. 4 No. 11 (Jan/Feb 1960). Deposition: Testimony Concerning a Sickness (1959) Take a look at the knee-jerk, hard-core sh[*]ts who react so predictably to the mere mention of with fear, hate and loathing. Haven't we seen these same people before in various contexts? Storm troopers, lynch mobs, queer- bashers, Paki-bashers, racists -- are these the people who are going to revitalize a 'Drug-free America'? ~ William S. Burroughs, The User: Documents 1840- 1960 (1991). Foreword The idea that

addiction is somehow a psychological illness is, I think, totally ridiculous. It's as psychological as malaria. It's a matter of exposure. People, generally speaking, will take any intoxicant or any that gives them a pleasant effect if it is available to them. ~ William S. Burroughs, Interview in The Paris Review, Issue 35 (Fall 1965). The Art of Fiction No. 36 The junk merchant does not sell his product to the consumer, he sells the consumer to the product. He does not improve and simplify his merchandise. He degrades and simplifies the client. ~ William S. Burroughs, The Naked Lunch (1959). Introduction, Deposition: Testimony Concerning a Sickness Marijuana is like Coors beer. If you could buy the damn stuff at a Georgia filling station, you'd decide you wouldn't want it. ~ Billy Carter I would go into the kitchen for coffee and on the way back to the page, curled in its roller, I would light one up and feel its dry rush mix with the dark taste of coffee. ~ Billy Collins, The Art of Drowning

(1995). The Best Cigarette "Drops," you are a darling! If I love nothing else, I love you! ~ (William) Wilkie Collins, Armadale (1866). Book IV, Chapter X. Miss Gwilt's Diary It's not call anymore. It's now referred to as "Crack Classic." ~ Billiam Coronel The pipe, with solemn interposing puff, Makes half a sentence at a time enough; The dozing sages drop the drowsy strain, Then pause, and puff -- and speak, and pause again. ~ William Cowper (of tobacco), from Poems by William Cowper of the Inner Temple, Esq. (1782). Conversation A smoky future never looks bright. ~ Bill Dodds, 1440 Reasons to Quit Smoking: One for Every Minute of the Day (2000). Cannabis does not cause death or organ damage. It is one of the safest in that way, safer than aspirin, which kills thousands every year. ~ William S. Eidelman, in The Los Angeles Times (1 May 2005). Witnesses to Pot's Medicinal Value Chemical roulette is a dangerous game with many losers. ~ William A. Emboden, Narcotic Plants (1972).

I never smoked a cigar in my life until I was nine. ~ W.C. Fields Self-pity is easily the most destructive of the nonpharmaceutical narcotics; it is addictive, gives momentary pleasure and separates the victim from reality. ~ John William Gardner, The Recovery of Confidence (1970). If excessive smoking actually plays a role in the production of lung cancer, it seems to be a minor one, if judged by the evidence on hand. ~ Wilhelm (William) C. Heuper, in the New York Times (14 April 1954). Tobacco Industry Denies Cancer Tie And on the seventh day, god stepped back and said, "There is my creation, perfect in every way ... oh, dammit I left pot all over the place. Now they'll think I want them to smoke it. ... Now I have to create republicans." ~ Bill Hicks How about a positive story? Wouldn't that be news-worthy, just the once? To base your decision on information rather than scare tactics and superstition and lies? I think it would be news-worthy. ~ Bill Hicks I'm a heavy smoker. I go through two

lighters a day. ~ Bill Hicks, (1988). I have something to tell you non-smokers that I know for a fact that you don't know, and I feel it's my duty to pass on information at all times. Ready? ... Non-smokers die every day. ... Enjoy your evening. See, I know that you entertain this eternal life fantasy because you've chosen not to smoke, but let me be the 1st to POP that bubble and bring you hurling back to reality. ... You're dead too. ~ Bill Hicks If you don't think have done good things for us, then take all of your records, tapes and CD's and burn them. ~ Bill Hicks They lie about marijuana. Tell you pot-smoking makes you unmotivated. Lie! When you're high, you can do everything you normally do, just as well. You just realize that it's not worth the f[*]cking effort. There is a difference. ~ Bill Hicks Today a young man on acid realized that all matter is mearly energy condensed through a slow vibration, we are all one consciousness experiencing itself subjectively, life is only a dream and we are the

imaginations of ourselves. Here's Tom with the weather. ~ Bill Hicks Why is marijuana against the law? It grows naturally upon our planet. Doesn't the idea of making nature against the law seem to you a bit ... unnatural? ~ Bill Hicks All dope can do for you is kill you ... the long hard way. And it can kill the people you love right along with you. ~ Billie Holiday If you think dope is for kicks and for thrills, you're out of your mind. There are more kicks to be had in a good case of paralytic polio or by living in an iron lung. If you think you need stuff to play music or sing, you're crazy. It can fix you so you can't play nothing or sing nothing. ~ Billie Holiday, Lady Sings the Blues (1956 autobiography). There isn't a soul on this earth who can say for sure that their fight with dope is over until they're dead. ~ Billie Holiday, Lady Sings the Blues (1956 autobiography). I told [reporters] that I sprinkled marijuana on my organic buckwheat pancakes, and then when I ran my five miles to the ballpark, it made me

impervious to the bus fumes. That's when [Baseball Comissioner] Bowie Kuhn took me off his Christmas list. ~ Bill "The Spaceman" Lee (on pre- game habits), quoted in Tales from the Red Sox Dugout (2000). Smoking's a way to let you down slowly from a ballgame. It also makes you use less of the resources around. It makes people better in the way they act towards society. Everybody's nicer. It's hard to be mean when you're stoned. ~ Bill "The Spaceman" Lee Something was definitely happening to me ... my brain would start clicking into another dimension or time warp ... it was as if everything was in 3-D, and I could visually grasp all three sides at once. Aside from that, I didn't get much of a buzz. ~ Bill "The Spaceman" Lee (on using pot). The other day they asked me about mandatory testing. I said I believed in testing a long time ago. All through the sixties I tested everything. ~ Bill "The Spaceman" Lee I have a terrible problem I cannot control. I need help. ... I hope they put

me in a program here. I have a sickness. ~ William Ligue, Jr. (on attacking Kansas City Royals first-base coach Tom Gamboa during the Sox-Royals game held September 19), The Daily Southtown (Telephone interview; 31 October 2002). 'I disgraced Chicago': Ligue apologizes for Comiskey attack No cigar-smoker ever committed suicide. ~ William Maginn Bob Dole admitted he used when he was in college, but then Coca-Cola changed its formula. ~ Bill Maher, ABC TV. Politically Incorrect This is tough love to a wonderful, high-performing kid. Sometimes, you got to take that kid to the woodshed to get them straightened out. ~ Bill Martin (on undetectable steroids' use within USA Track & Field), Statement after USOC executive committee session, Cleveland OH (17 October 2003). I think people need to be educated to the fact that marijuana is not a . Marijuana is an herb and a flower. God put it here. If He put it here and He wants it to grow, what gives the government the

right to say that God is wrong? ~ Willie Nelson I'll support a war on , but not a war on flowers or herbs. ~ Willie Nelson, The Tao of Willie: A Guide to the Happiness in Your Heart (2006). How High Is Up? If a man wishes to rid himself of a feeling of unbearable oppression, he may have to take hashish. ~ Friedrich Wilhelm Nietzsche, Ecce Homo (1888). Why I am so Clever Two great European narcotics, alcohol and Christianity. ~ Friedrich Wilhelm Nietzsche, The Twilight of the Idols (1888). Things the Germans Lack I agree with (hippie leader) Wavy Gravy. There's blood on heroin and . ~ William L. Pickard, Jr., The San Francisco Chronicle (June 2001). William Pickard's long, strange trip: Suspected trail leads from the Bay Area's s era to a missile silo in Kansas I'm not a user at all. Nor do I synthesize controlled substances or distribute them. I don't even drink. A big experience to me would be a cup of coffee. ~ William L. Pickard, Jr., The San Francisco Chronicle (June 2001). William

Pickard's long, strange trip: Suspected trail leads from the Bay Area's s era to a missile silo in Kansas If someone wants to do , as long as it doesn't affect anyone else in a violent manner, as long as he or she isn't corrupting minors or driving under the influence or endangering others, shouldn't a person have that right? ~ (William) Brad Pitt, in Esquire Magazine (October 2006). I don't smoke. I used to smoke. ... And as I go down the years from when I used to smoke, it's more and more irritating to me that those who do don't pay any attention to those who don't care to. And it may well be that we have to see that those who don't smoke are protected from those who do. ~ William D. Ruckelshaus, Tobacco Institute Newsletter, Number 39 (22 December 1971). use and procrastination often go hand in tourniquet. ~ Will Self, from Junk Mail (1995). Introduction So I was smacked out on the Prime Minister's jet, big deal. ~ Will Self (having been dismissed as a columnist by the "Observer" after

taking heroin), in The Independent on Sunday (20 April 1997). What are politicians going to tell people when the Constitution is gone and we still have a problem? ~ William Simpson, in Time magazine (14 May 1990). American Notes North Carolina I have lung cancer. Take some advice about smoking and losing from someone who's been doing both for years. If you haven't smoked, don't start. If you do smoke -- quit. Don't be a loser. ~ William Talman, American Cancer Society TV Advertisement (September 1968). Antismoking Public Service Announcement The pipe draws wisdom from the lips of the philosopher, and shuts up the mouth of the foolish: it generates a style of conversation, contemplative, thoughtful, benevolent, and unaffected: in fact, I must out with it -- I am an old smoker. ~ William Makepeace Thackeray, from Sketches and Travels in London (1856). Mr. Brown's Letters to his Nephew: Mr. Brown the Elder Takes Mr. Brown the Younger to a Club I've never heard of

anybody smoking a joint and going on a rampage. It makes you lie around on the floor and look at the ceiling. What's wrong with that? ~ Billy Bob Thornton, in TV Guide Magazine (November 2000). Billy Bob: No Rampage There is a central human experience which alters all other experiences. It has been called satori in Japanese Zen, moksha in Hinduism, religious enlightenment or cosmic consciousness in the West ... (It) is not just an experience among others, but rather the very heart of human experience. It is the center that gives understanding to the whole. ... Once found, life is altered because the very root of human identify has been deepened. ... The appears to facilitate the discovery of this apparently ancient and universal experience. ~ Wilson Van Dusen, Psychologia, vol. 4:11-16 (1961). and the Enlightenment of Zen I did in the hospital, never on my own. I did it in a controlled environment to try to find things out about myself. ... A psychiatrist told me I should

take some trips. ~ Andy Williams The desire for instant gratification is at the heart of substance abuse. We want to "feel good," so we drink, or we smoke, or do anything to get a high. Soon we are unable not to want it, and an addiction is born. ~ Angel Kyodo Williams, Being Black: Zen and the Art of Living With Fearlessness and Grace (2000). So, big surprise, I just stopped smoking Yeah, la di dah, now don't remind me I think I'm going insane. ~ Dar Williams, in All My Heroes Are Dead (1991 album). Stop Smoking You're assuming I used . When you say , what exactly do you mean? ~ Ricky Williams, The San Francisco Chronicle (21 November 2004). NFL dropout Ricky Williams chilling in Sierra: He's been found studying the healing arts is God's way of saying you're making too much money. ~ Robin Williams About a year ago I had what I consider a very religious experience. I took , a full dose of , and later, another time, I took a smaller dose. And I learned a lot of things, like patience,

understanding. I can't teach you or tell you what I learned from taking it, but I consider it a very religious experience. ~ Brian Wilson, The Los Angeles Times (1966). A year later, I had my first experience with marijuana, and I found my of choice -- next to food, which has been the most powerful in my life, and probably always will be. But I loved the feeling of being stoned, and the smell and taste of pot -- I still do. ~ Carnie Wilson, Gut Feelings (2001). Songs, Sex, and Smoke You don't need to take to cinate; improper language can fill your world with phantoms and spooks of many kinds. ~ Robert Anton Wilson, Chaos and Beyond: The Best of Trajectories (1994). After all, in spite of opinion, prejudice, or error, time will fix the real value upon the discovery, and determine whether I have imposed upon myself and others, or contributed to the benefit of science and mankind. ~ William Withering (of the digitalis), from An Account of the Foxglove and Some of Its Medicinal Uses (1785). Preface It's time for

members of Congress to take off the blinders to the suffering they have caused through intolerant and politically motivated laws. ~ Bill Zimmerman, on U.S. v. Oakland Cannabis Buyers' Cooperative et al. (14 May 2001). Top of Page © 1999- 2013 all things William. All Rights Reserved. A Collection of Quotes Based on the Name William Trial DEA Agent: Use of confidential sources a 'necessary evil' The Wamego Times, March 6, 2003 by Mark Portel Wamego Times Editor Using confidential informants to infiltrate trafficking rings is a "necessary evil" accepted by law enforcement and the courts, the lead DEA agent in the conspiracy case testified last week in U. S. District Court, Topeka. Special Agent Karl Nichols testified in the trial of William Leonard Pickard, 57, and Clyde Apperson, 47, the San Francisco men charged with one count of conspiracy to manufacture and distribute . They were arrested in early November of 2000, just outside of Wamego after leaving the converted

Atlas-E missile base where the alleged tab had been stored. Nichols, a former forensic chemist and a special agent with the San Francisco Division of the Enforcement Administration since 1992, said law enforcement uses confidential informants such as Gordon Todd Skinner because they have direct knowledge of the organization and the trust of the co-conspirators. It is very difficult, and often impossible, for an "outsider" to penetrate the upper echelon of a organization, Nichols testified. SKINNER, AN admitted co-conspirator in the investigation, pledged cooperation with authorities in exchange for his own immunity in the case. Skinner is former owner of the Wamego missile base, where the .alleged lab was moved in July of 2000, from an Atlas-F missile base at Carneiro, KS. Since the 1960s, San Francisco has been a primary source area for , Nichols said. When the DEA saw a resurgence of the cinogen in the early 1990s, Nichols became part of a special investigative

team which operated from 1992 to 1996, when it was disbanded and absorbed into the DEA's clandestine lab 'group. The special team was formed "out of a need to take the investigation from the street level all the way to the manufacturer," Nichols testified. One of Nichols' first duties with the special team was to search the criminal history records of the FBI and the state of California and develop a database of names with past associations with and ergotamine tartrate (ET), a precursor chemical of . Before signing up a confidential informant, the DEA exercises a number of controls, according to Nichols. Only a street agent-not a supervisor can sign up an informant; the agent first interviews the potential source to see if the information he can provide is worthwhile and verifiable; the potential source is fingerprinted and photographed, and a background check is conducted to assess his credibility; and both parties must sign a confidential source agreement. NICHOLS

FIRST became involved in the conspiracy case in early October of 2000, after receiving a call from DEA headquarters at Washington, D. C. An attorney had approached "Main Justice" (U . S . Department of Justice) in Washington and said his client was in possession of an lab and wanted to turn it in. His client, Gordon Todd Skinner, was involved in the conspiracy and was "uncomfortable with law enforcement." He wanted to talk to someone knowledgeable about . Skinner flew to the west coast and was interviewed by Nichols and other DEA agents October 17-18, 2000. Following the interview and subsequent taped phone calls to Pickard, Skinner was signed on as a "confidential informant" and was granted immunity in exchange for his cooperation. Nichols became the lead agent in the conspiracy investigation. According to Nichols, it is not unusual for confidential sources to lie about manufacturing, distribution and importation, and it's not unusual for an informant to have a history of use and a

criminal past. "From the first point I met him, to say the least his story was ' as pretty fantastic," Nichols testified. "Mr. Skinner was not atypical, but kind of a wild guy. I told him from the get-go, I did not trust him and wouldn't until I corroborated some of the things he had said." Skinner later tried to conceal from the DEA 26 cannisters of ergotamine tartrate valued at $ 100,000 per cannister. ACCORDING TO Nichols, the community is very small and tight-knit. Its members are normally well-educated and they like to communicate among themselves. There is an "intelligence network" within the community making it extremely difficult to penetrate the organization. Normally, it's not possible to identify all the co-conspirators in a organization, Nichols said. Members come and go within an organization and they often don't know each other at all, thus minimizing their exposure and protecting themselves from law enforcement or a competing ring from "coming in and taking you

out." Since and other cinogens are not necessarily addictive, the demand is not as great as for other , such as methamphetamine, and heroine. The potency of the is so significant, however, that a few tabs can supply a large number of people. In the past 20 years, the DEA has seized only about 20 tabs nationwide. By comparison, an estimated 800 meth labs are seized annually in the state of California alone. is a very potent , sensitive to both light and heat. Synthesis of the must be done in a dry, low-light atmosphere with measures taken to prevent contamination from the manufacturer. cinogens are "used for fun," Nichols said. "Sit down with your friends and have a fun experience' " Reaching a "higher level of consciousness" is promoted among members of the community, he said. FOLLOWING THE October 17-18 interview, Nichols said he corroborated the information obtained from Skinner by comparing it to the names in the database he had developed as a member of the special

investigative team. Taped phone conversations between Skinner and Pickard, as well as a subsequent videotaped meeting between the two in a California hotel room provided further corroboration. Finally, Skinner singled out a photo of Alex Reid (Petaluma Al) the member of the organization responsible for pickups adn money drops in California. "That was the turning point when I knew Mr. Skinner had significant information about the operation; either that, or he was the luckiest man in the world," Nichols said. Timeline Following is the sequence of events, according to trial testimony, leading up to the bust November 6, 2000, just outside of Wamego. • 1994- Gordon Todd Skinner meets Alfred Savinelli at the Telluride Mushroom Festival, after which Skinner makes frequent visits to Savinelli's Taos, N. M. home for "research" on cinogens. • 1995-Savinelli begins buying chemicals and lab equipment for William Leonard Pickard through his Taos business, Native Scents. • 1996- Skinner buys

the Atias-E missile base northwest of Wamego from Wichita scrap dealer Richard Dawson for the purpose of developing a branch of Gardner Industries, his family's industrial spring factory at Tulsa, Okla. • Fall of 1996- Skinner first meets Pickard at an ethnobotany conference in San Francisco's Palace of Fine Arts. • September 29,1997-David Haley leases a remote Santa Fe, N. M. house which he sub-leases to Pickard, who pays Haley approximately $300,000 in cash over a two-year period. Haley later learns the house is being used to conceal a clandestine lab. • February 1998- Skinner meets Pickard again at a conference of the American Academy of Forensic Scientists at San Francisco, and their relationship in the conspiracy begins. • December 1999-The lab is moved from Santa Fe to an abandoned Atlas-F missile base at Carneiro, Ks., owned by Tim Schwartz, a friend of Skinner's. Recently divorced, Schwartz had asked Skinner to fix up the missile base while he traveled. • January 9, 2000-Skinner is

arrested outside his Wamego missile base for impersonating a federal officer at Harrah's Prairie Band Casino near Holton. • March 2000- Apparently despondent over his divorce, Schwartz commits suicide. May 2000- Skinner, Pickard and others travel to Chicago where Pickard makes a deal for 40 kilograms of ergotamine tartrate (ET), a precursor chemical of . • July 2000- Skinner learns the father of Schwartz is trying to gain access to the Carneiro missile base following his son's death, prompting Skinner to make a unilateral decision to assemble a team and move the lab to his Atlas-E base near Wamego. Pickard and Clyde Apperson are unaware of the relocation. • August 2000- Skinner is convicted in U. S. District Court of impersonating a federal officer at Harrah's Prairie Band Casino. • October 2000- Concerned that his trouble with the law will arouse suspicion, Skinner and his attorney fly to Washington, D. C. to try to cut a deal with the U. S. Department of Justice for providing

information about the lab. • October 17-18, 2000-Skinner is interviewed by Special Agent Karl Nichols, DEA San Francisco, to assess Skinner's credibility. A series of phone calls between Skinner and Pickard, taped by the DEA, convince authorities the information is legitimate, and Skinner is granted immunity by the head of the criminal division of the U. S. Department of Justice in exchange for his cooperation in the case. • October 23, 2000-DEA agents secretly videotape a meeting between Skinner and Pickard in a California hotel room. • October 27, 2000-DEA agents conduct a walk-through of the Atlas-E missile base to further verify Skinner's information. • October 31, 2000- DEA agents execute a search warrant at the missile base and take chemical samples to verify it is an lab. • November 3,2000-DEA agents accompany Skinner to Tulsa for a prearranged meeting with Pickard and Apperson, who are coming to Wamego to retrieve the lab. • November 4, 2000-Pickard

and Apperson arrive at the Wamego missile base, which is under heavy surveillance by DEA agents. • November 6, 2000-Pickard and Apperson leave the missile base in a rented Buick and Ryder truck containing the lab. Kansas Highway Patrol troopers stop the vehicles on Columbian Rd. where Apperson is apprehended, but Pickard escapes into the timber. • November 7, 2000-Pickard is arrested at the farmstead of Bill Taylor on Military Trail Rd. between Wamego and St. George.UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT UNITED STATES,) APPELLEE,)) v.) Case No: 03-3369) Dist/AG WILLIAM LEONARD PICKARD,) docket: 00-CR-40104-01-RDR and CLYDE APPERSON,) APPELLANTS,) Case No: 03- 3368) Dist/AG) docket: 00-CR- 40104-02-RDR SUPPLEMENTAL MOTION TO REMAND TO TRIAL COURT FOR THE LIMITED PURPOSE OF GRANTING A NEW TRIAL BASED ON NEWLY DISCOVERED

EVIDENCE OF JUROR MISCONDUCT PURSUANT TO FEDERAL RULE OF CRIMINAL PROCEDURE 33 COMES NOW, the Appellants, William Leonard Pickard, by and through his counsel, William K. Rork, of RORK LAW OFFICE, and also joining in this motion, Appellant, Clyde Apperson, by and through his counsel, Mark L. Bennett, and in support of this "SUPPLEMNTAL MOTION TO REMAND TO TRIAL COURT FOR THE LIMITED PURPOSE OF GRANTIG A NEW TRIAL..." incorporating herein the same facts and authorities as stated in their original motion, would additionally, advise the Court as follows: SUPPLEMENTAL FACTS During voir dire examination conducted by Gregory Hough, (AUSA), of Clyde Cochran, potential juror, immediately before the voir dire examination of Scott Lowry (jury foreperson), Mr. Hough asks Cochran about his children and grand children, and whether any of them are studying to be in the legal profession or law enforcement, and he

responds, “no.” (ROA, Vol. 59, page 308, L. 11-12). Hough asks Cochran a question regarding his experience with negotiating contracts for the Kansas Children’s Services League, and when negotiating contracts, if he has legal background, and Cochran responds in the negative. (ROA, Vol. 59, page 323, L. 5-7). In the ROA, Vol. 60, page 429, beginning on line 5, during the voir dire examination by Hough, of potential juror Janet Wehrley, the question is posed “You recall the questions and were you able to hear the questions that have been asked to the other panel members over the last two days?” and Wehrley responds, “yes.” Hough inquires on line 9, “you’re smiling?” and she responds, “It’s because I think I know them by heart.” This question and answer portion, conducted right after the examination of Lowry exemplifies the fact that jurors heard the kinds of questions that were being asked, and as such, Lowry must have known when questioned immediately before, that he should indicate that

he is in fact an attorney and went to Washburn University Law School. The same question "Do you have any or does anyone in your family have any legal training or background," was posed to other potential jurors, Anita McLean and James Mason, during voir dire examination by Bennett, immediately after the voir dire examination of Juror Lowry. (ROA, Vol. 60, page 444, L. 14-15, and ROA, Vol. 60, page 455, L. 2-3). At this point, Lowry must have known that he was required to come forward with the fact that he was an attorney. Lowry was prompted several times, both before and after his examination to indicate that he had legal training and experience, yet he kept this information to himself, and did not reveal his qualifications. The questions were posed to the above named potential jurors immediately after Hough asks, foreperson Lowry, "Now, sir, the questions that have been asked today and yesterday, did you hear the questions that I have asked and the two defense attorneys have

asked?" Lowry responds, "Yes." Hough asks, "Any of those that would require any explanation?" Lowry responds, "No. (ROA, Vol. 59, page 295, L. 1-23). Based on the questions immediately following Lowry's examination, he must have known, as an attorney and officer of the court, that he should then have at least come forward with the fact that he was an attorney. SUPPLEMENTAL ARGUMENTS AND AUTHORITIES The Sixth Amendment, made applicable to the states through the Fourteenth Amendment, requires that a state provide an impartial jury in all criminal prosecutions. Jones v. Cooper, 311 F.3d 306, 310, (4th Cir. 2002), citing Irvin v. Dowd, 366 U.S. 717, 722, 6 L.Ed. 2d 751, 81 S.Ct. 1639 (1961). Due process alone has long demanded that, if a jury is to be provided the defendant, regardless of whether the Sixth Amendment requires it, the jury must stand impartial and indifferent to the extent commanded by the Sixth Amendment. Id. at

310, citing Morgan v. Illinois, 504 U.S. 719, 727, 119 L.Ed. 2d 492, 112 S.Ct. 2222 (1992). In Morgan, the court determined if even one [partial] juror is empaneled and the death sentence is imposed, the state is disentitled to execute the sentence. Id. at 728. "The test for determining whether a new trial is required in the context of juror deceit during voir dire or on jury questionnaires is: the defendant must first demonstrate that a juror failed to answer honestly a material question...and then further show that a correct response would have provided a valid basis for a challenge for cause." Jones, 311 F.3d at 310, citing McDonough Power Equip., Inc. v. Greenwood, 464 U.S. 548, 78 L.Ed. 2d 663, 104 S.Ct. 845 (1984). In Jones, the court observed, "The McDonough test is not the exclusive test for determining whether a new trial is warranted: a showing that a juror was actually biased, regardless of whether the juror was truthful or deceitful, can also entitle a defendant to a new

trial." Id. at 310, citing Fitzgerald v. Greene, 150 F.3d 357, 363 (4th Cir. 1998). Here, Lowry failed to disclose upon several prompts by counsel both immediately before and after his voir dire examination, that he was an attorney and graduated from Washburn University Law School, which would have provided a valid basis for a challenge for cause as evidenced in the record on appeal. Here, the elements of the McDonough test are met and the Appellants' are entitled to a new trial, or at the very least, a hearing upon remand on this issue. Although in McDonough the juror's incorrect response in voir dire was an honest mistake, the test applies equally to deliberate concealment and to innocent non-disclosure, as our sister circuits have held. Jones, 311 F.3d at 310, citing Zerka v. Green, 49 F.3d 1181, 1185 (6th Cir. 1995); United States v. Langford, 990 F.2d 65, 68 (2nd Cir. 1993); Artis v. Hitachi Zosen Clearing, Inc., 967 F.2d 1132, 1141-42 (7th Cir. 1992); Burton v. Johnson, 948 F.2d 1150, 1158 (10th Cir.

1991); United States v. St. Clair, 855 F.2d 518, 522-23 (8th Cir. 1988); United States v. Scott, 854 F.2d 697, 698, (5th Cir. 1988). Here, the test applies to both deliberate and innocent non-disclosure. Even if jury foreman Lowry (an attorney who must abide by the Model Rules of Profession Rules of Conduct), argues that he did not know he had to disclose the fact that he had legal training, his innocent non- disclosure would be enough to satisfy the first prong of the McDonough test. It is questionable however, that he did not know that he must disclose this material fact, given the fact that several other jurors were asked the same question, and that he indicated he heard all the questions asked of the other jurors and there was nothing he needed to talk about. Supra. In any event, the Appellants', at the very least, should be entitled to a remand to the trial court, for the limited purpose of a hearing to resolve this issue, without losing jurisdiction over the pending appeal on its merits. As observed in Fitzgerald, "Failure to

satisfy the requirements of the McDonough test does not end the court's inquiry, however, when the petitioner also asserts a general Sixth Amendment claim challenging the partiality of a juror based upon additional evidence occurring outside voir dire." Fitzgerald, 150 F.3d at 362. Regardless of whether a juror's answer is honest or dishonest, it remains within a trial court's option, in determining whether a jury was biased, to order a post-trial hearing at which the movant has the opportunity to demonstrate actual bias, or in exceptional circumstances, that the facts are such that bias is to be inferred. Fitzgerald, 150 F.3d at 363, citing McDonough, 464 U.S. at 556-57. See also Smith 455 U.S. at 215, (holding that 'the remedy for allegations of jury partiality is a hearing in which the defendant has the opportunity to prove actual bias.') Indeed, a trial judge might find that a juror is biased even in a situation where, when specifically asked, the juror professes that he or she could be impartial. United State v.Torres,

128 F.3d 38, 44, 1997 U.S. App. LEXIS 27765 (2nd Cir. 1997). Here, based on the severity of the failure of jury foreman Scott Lowry, an attorney and officer of the court, to disclose material information, that if disclosed, would have given counsel the ability to challenge his presence on the jury for cause, the appellants should be granted an opportunity to demonstrate actual bias, or that bias is to be inferred. Implied or presumed bias is "bias conclusively presumed as a matter of law." Torres, 128 F.3d at 45, citing United States v. Wood, 299 U.S. 123, 81 L.Ed. 78, 57 S.Ct. 177 (1936). It is attributed to a prospective juror regardless of actual partiality. In contrast to the inquiry for actual bias, which focuses on whether the record at voir dire supports a finding that the juror was in fact partial, the issue for implied bias is whether an average person in the position of the juror in controversy would be prejudiced. Id. at 45, citing United States v. Haynes, 398 F.2d 980, 984 (2nd Cir. 1968). Blackstone states that

exclusion of a prospective juror for implied bias is appropriate when it is shown: "that he is of kin to either party within the ninth degree; that he has been arbitrator on either side; that he has an interest in the cause; that there is an action pending between him and the party; that he has taken money for his verdict; that he has formerly been a juror in the same cause; that he is the party's master, servant, counselor, steward, or attorney, or of the same society or corporation with him." Torres, 128 F.3d at 45, citing 3 W. Blackstone, Commentaries 480-481 (W. Hammond ed. 1890). In the instant case, foreman Lowry was selected by the jurors to lead their deliberations. In a jury consisting in part of manual workers, homemakers, and secretaries, foreman Lowry's position as an attorney more than likely influenced both his election and his influence upon deliberations. The fact that he went to Washburn University Law School and associated himself while there with various students of the small campus, is

enough by itself to show implied bias, that he was of the same "society," as the AUSA. Attached as an exhibit is an excerpt from a Washburn University School of Law Catalog, referencing the fact that the law school's size makes it possible for every student to know every administrator, every student, and every professor. (See attached exhibit 1). Also attached is a brochure referencing the fact that the law school's classrooms, library, clinic, study areas, computer labs, and administrative offices are all housed in one building. (See attached Exhibit 2). The information evidences the fact that the school is a small school, where more than likely all students at the very least, recognize each other, and demonstrates the close interaction of students that attend. Lowry deceived the court and attorneys about his qualifications to serve on the jury. To determine what occurred, and to further examine the probability of actual, implied or inferred bias, a hearing is necessary in which the entire panel is

questioned. Dishonesty, of itself is evidence of bias. Burton v. Johnson, 948 F.2d 1150, 1158-59 (10th Cir. 1991), citing United State v. Colombo, 869 F.2d 149, 152 (2nd Cir. 1989); Consolidated Gas & Equipment Co. of American V. Carver, 257 F.2d 111, 115 (10th Cir. 1958); United States v. Scott, 854 F.2d 697, 699 (5th Cir. 1988). Here, upon several prompts by each counsel during voir dire examination, Lowry was dishonest in his failure to disclose the material fact that he was an attorney who graduated from Washburn University Law School, which is material to his qualification to be a jury member. In Scott, it was noted, "the juror did not simply misunderstand the question asked. Nor did he simply forget the question that his brother was a deputy sheriff in a law enforcement agency involved in the investigation. Rather, the juror consciously censored the information. He believed it was his place, and not the place of the court or defense counsel, to determine whether his relations were

a bar to jury service in this case. There is a strong inference that the juror wanted to serve on the jury and thought it unlikely that the court or defense counsel would permit him to do so. The juror was hostile to what he correctly perceived to be the interests of the defense and the court. This in itself, constitutes bias. Id. at 699. The instant case is analogous to Scott. Here, Lowry consciously censored questions from the Judge, defense attorneys and prosecution and did not come forward with the information that he had legal training and in fact graduated within one year of the AUSA handling the case, and a classmate of another AUSA in the same office. He heard questions presented to other juror members both immediately before and after his examination, consisting of whether any of the jurors had legal training. The only inference to be made is that he wanted to serve on the jury and believed if he disclosed this information, the judge or defense counsel would not have allowed him to sit on

the jury. As other circuits have recognized, "certainly, when possible non-objectivity is secreted and compounded by the untruthfulness of a potential juror's answer on voir dire, the result is a deprivation of the defendant's right to a fair trial." Id. at 699. The district court found the juror's failure to respond unreasonable. On the other hand, the court found that his belief that he was unaffected by his brother's employment with a policy agency involved in the investigation in the case was sincere. Id. at 699. The court opined, the record of voir dire strongly suggests that he wanted to serve on the jury and feared that he would not be allowed to do so if he disclosed his brother's employment. He contends that, despite the summary excusal of two prior venire members with close relatives in law enforcement, he understood his brother's employment would be grounds for excusal only if he believed that it would affect his judgment. Id. at 699. Here, Lowry's failure to disclose his legal training and where he attended law school

evidences that he wanted to serve on the jury. The question, "for what reason?" remains to be answered. For whatever reason that Lowry wanted to serve on the jury, his failure to disclose material information with regard to his qualifications to serve on the jury, resulted in the deprivation of the Appellants' right to a fair trial, required by the Sixth Amendment. "A juror may not conceal material facts disqualifying him because he sincerely believes that he can be fair in spite of them." Id. at 699. As Justice O'Conner observed in Smith v. Phillips: "Determining whether a juror is biased or has prejudiced a case is difficult, partly because the juror may be unaware of it. The problem may be compounded when a charge of bias arises from juror misconduct, and not simply from attempts of third parties to influence a juror." Id., citing Smith v. Phillips, 455 U.S. 209, 221-22, 102 S.Ct. 940, 71 L.Ed. 2d 78 (1982). "A juror who lies materially and repeatedly in response to legitimate inquiries about her background

introduces destructive uncertainties into the process...A perjured juror is unfit to serve even in the absence of such vindictive bias." Dyer v. Calderon, 151 F.3d 970, 983, 1998 U.S. App. LEXIS 18171 (9th Cir. 1998). If a juror treats with contempt the court's admonition to answer voir dire questions truthfully, she can be expected to treat her responsibilities as a juror - to listen to the evidence, not to consider extrinsic facts, to follow the judge's instructions - with equal scorn. Id. at 983. How can someone who herself does not comply with the duty to tell the truth stand in judgment of other people's veracity? Id. at 983. Having committed perjury, she may believe that the witnesses also feel no obligation to tell the truth and decide the case based on her prejudices rather than the testimony. Id. at 983. "More is at stake here than the rights of petitioner, 'justice must satisfy the appearance of justice.'" Id. at 983, citing Offut v. United States, 348 U.S. 11, 14, 99 L.Ed. 11, 75 S.Ct. 11 (1954). "An irregularity in the

selection of those who will sit in judgment 'casts a very long shadow.'" Id. at 983, citing Cruz v. Abbate, 812 F.2d 571, 574 (9th Cir. 1987). A perjured juror is as incompatible with our truth-seeking process as a judge who accepts bribes. Id. at 983, citing Bracy v. Gramley, 520 U.S. 899, 117 S.Ct. 1793, 1797, 138 L.Ed. 2d 97 (1997). The court in Dyer, agreed with Chief Judge Winter: "Courts cannot administer justice in circumstances in which a juror can commit a federal crime in order to serve as a juror in a criminal case and do so with no fear of sanction so long as a conviction results. The government's brief exhibits no concern over the possible criminality of the juror's conduct and asks us to affirm without further inquiry... Whether the government chooses to prosecute such cases is not for us to decide. We need not reduce its incentives to take such conduct seriously, however, by giving the government cause to believe that overlooking juror misconduct will preserve tainted

convictions. Id. at 984, citing United States v. Colombo, 869 F.2d 149, 152 (2nd Cir. 1989). In Columbo, the court observed, "the point is not that the fact that the juror's brother-in-law was a government attorney tainted the proceedings, but that her willingness to lie about it exhibited an interest strongly suggesting partiality. The deliberateness distinguishes this case from McDonough and Smith, ('mistaken, though honest response to a question in McDonough, not deliberate in Smith'). Columbo. 869 F.2d at 152. The court in Colombo found that if in fact the juror's brother- in-law was a government attorney, that is sufficient corroboration of the Kennedy affidavit to call for Klan's conviction to be vacated. Id. at 152. "Inquiry into a juror's state of mind by way of partial denial, explanation or protestations of impartiality would not reveal evidence that was under these conditions either trustworthy or sufficient to offset the deliberate violation of the oath. Id. at 152. We trust the juror will, if called to testify,

be advised to seek counsel." Id. at 152. In the interests of justice, Lowry must not be allowed to lie or conceal his qualifications to sit on the jury. The fact that he is an officer of the court, deems his non-disclosure of a material fact even more serious than the non- disclosure of a material fact by a lay person, who may be completely ignorant. Here, the court cannot administer justice because Lowry has perjured himself in order to serve as jury foreman in this case. The fact that a guilty verdict was reached does not change the fact that misconduct occurred and the Appellants' were denied a right to a fair trial. The Appellants merely ask for a remand for an evidentiary hearing on this matter for the limited purpose of determining whether a new trial is warranted, without losing jurisdiction over the pending appeal on its merits. WHEREFORE, in line with the above and foregoing, these Appellants pray, in further consideration of this Appellant's "SUPPLEMENTAL MOTION TO REMAND

TO TRIAL COURT FOR THE LIMITED PURPOSE OF GRANTING A NEW TRIAL...” that this Honorable Court grant Appellants’ original “MOTION TO REMAND TO TRIAL COURT FOR THE LIMITED PURPOSE OF GRANTING A NEW TRIAL...” for the limited purpose of an evidentiary hearing for a new trial, concerning jury foreman misconduct, and additionally request this Honorable Court stay the proceedings pending in the appeal process, but only if remand will not deprive this Honorable Court of jurisdiction of the pending appeal on the merits and consistent with the second and third procedures stated in Garcia herein. Respectfully submitted, _____ WILLIAM K. RORK RORK LAW OFFICE Attorney for Pickard and _____ MARK L. BENNETT BENNETT, HENDRIX, L.L.P. Attorney for Apperson CERTIFICATE OF SERVICE I, the undersigned, do hereby certify that on the 14th day of June, 2004, I

caused the original and seven copies of the above and foregoing "SUPPLEMENTAL MOTION TO REMAND TO TRIAL COURT FOR THE LIMITED PURPOSE OF GRANTING A NEW TRIAL..." to be filed with the Clerk of the United States Court of Appeals for the Tenth Circuit, by depositing the same in the U.S. mail, addressed to the Clerk, Mr. Patrick J. Fisher, and a conformed copy was hand delivered to Gregory G. Hough, (AUSA), at 444 S.E. Quincy, Suite 290, Topeka, KS 66683. _____ ROBIN ALVAREZ Administrative Assistant tc pckrd.smrt21 June 2004 Ms. Janith A. Davis Deputy Disciplinary Administrator Office of the Disciplinary Administrator State of Kansas 701 Jackson St., 1st Floor Topeka, KS 66603-3729 Dear Ms. Davis: Thank you for your letter of May 28, 2004 concerning the KRPC and the enclosure of the complaint form. Attached you will discover a complaint, affidavit, and exhibits concerning the following matters: 1.) The

complaint is directed against a Kansas attorney, Scott David Lowry. 2.) It is alleged that Scott David.Lowry deceived court and counsel about his legal background while acting as a jury foreman. 3.) It is further alleged that Mr. Lowry deceived the court and defense counsel about his acquaintance with various employees of the USAO, including the AUSA prosecuting the case in which Mr. Lowry was jury foreman. 4.) In doing so, it is asserted that Mr. Lowry violated the relevant sections of the Kansas Rules of Professional Conduct. I request that the Office of the Disciplinary Administrator investigate this matter and apply the appropriate sanctions for violations of the KRPC of this degree. During the course of your investigation, I will continue to provide supplemental exhibits as they become available. 5.) The initial exhibits are enclosed within, or attached to, the motion before the 10th Circuit Court of Appeals and now pending. Please let me know if I may be of further assistance. Sincerely William L. Pickard

82687011 3901 Klein Blvd. Lompoc, CA 93436 STATE OF KANSAS STANTON A. HAZLETT Disciplinary Administrator FRANK V. DIEHL ALEXANDER WAL CZAR JANITH A. DAViS Deputy Disciplinary Administrators GAYLE B. LARKIN Admissions Attorney 701 Jackson St 1st Floor Topeka, Kansas 66603- 3729 Telephone: (785) 296-2486 Fax:(785) 296-6049 OFFICE OF THE DISCIPLINARY ADMINISTRATOR COMPLAINT FORM GENERAL INSTRUCTIONS: Complete the following form in as much detail as possible. Provide the attorneys lull name. If you wish to complain about more than one attorney, complete a separate complaint form for each attorney. If any of the questions do not apply to your case, write N/A in the spaces that are net applicable. FEE DISPUTES: Please be advised that we do not settle fee disputes. If you are disputing the fee paid to your attorney, please contact one of the following Fee Dispute Committees: Johnson County Bar Fee Dispute

Committee (913) 780-5460; Sedgwick County Bar Fee Dispute Committee (316) 263-2251; Kansas Bar Association Fee Dispute Committee (785) 2345696. PROCEDURE: After the materials are received by the Office of the Disciplinary Administrator, an attorney will be assigned to review the documents and supervise the investigation of the complaint. You will be kept informed when action occurs regarding your complaint. Your Name: William Leonard Pickard Your Address: 82687011 3901 Klein Blvd. City, State, Zip: Lompoc California 93436 Home Phone No.:313.557.6219 Cell Phone No.: Work Phone No.: Fax Phone No.. E-Mail Address: pickard@berkeley. edu respond via letter --NA Attorney's Name:Scott David Lowry Attorney's Address:Kansas State Bank Commision 700 SW Jackson St Ste 300 City, State, Zip:Topeka KS166603 Attorney's Phone No.:785.228.1445 Did you hire the attorney? Yes _____ No X If yes, when did you hire the attorney? How much did you pay the attorney

for attorney fees? Please attach a copy of any receipts, cancelled checks, contracts, fee agreements, and engagement letters. What did you hire the attorney to do? If no, what is your connection with the attorney? Please explain briefly. Attorney was jury foreman in United States v Pickard but denied legal training during voir dire Attorney also denied acquaintance with USAO but attended law school with AUSA that prosecuted the case in which attorney was foreman. Is your complaint about a law suit? Yes X No If yes, what is the name of the court? For example, the Kansas Supreme Court, the District Court of Shawnee County, Kansas, the Municipal Court of Topeka, Kansas. United States District Court for Kansas What is the title of the suit? For example, Jane Smith v. John Doe. United States v. Pickard (D.C No 00-CR-40104-01- RDR) What is the case number? see above, and 10th Cir. case No. 03-3369 Approximately when was the law suit filed? The eleven- week proceeding began on January 13,

2003 If you are not a party to the law suit, what is your connection with it? Please explain briefly. Have you or has a member of your family complained about an attorney in the past? Yes No X If yes, what is the name of the attorney who was the subject of the previous complaint? Approximately when was the previous complaint filed? What was the disposition of the previous complaint filed? FACTUAL STATEMENT: On a separate piece of paper, please prepare a detailed factual statement of your complaint. State the facts as you understand them. Do not include opinions or arguments. Include information about the type of case it was, i.e. divorce, criminal, etc. and when it started. If you employed the attorney also include how you chose the attorney, when you first met with the attorney, what the fee agreement was, whether the agreement was written or oral, what has happened so far in the case, and the last contact you had with the attorney. Sign and date your

statement. Further information may be requested later. Attach copies of pertinent documents. PLEASE BE ADVISED THAT WE CANNOT RETURN DOCUMENTS SUBMITTED TO THIS OFFICE. YOU SHOULD RETAIN A COPY OF ALL MATERIALS YOU SUBMIT. Please send the completed Complaint Form, your detailed statement of complaint, along with any pertinent documents to: Office of the Disciplinary Administrator, 701 Southwest Jackson, First Floor, Topeka, Kansas 66603. Complainant's Signature AFFIDAVIT AND COMPLAINT 1.) I, William Leonard Pickard, allege the following: 2.) I am the defendant in the matter of United States v Pickard (D.C. No. 00-CR-40104-0l-RDR, 10th Circuit Case No. 03-3369). 3.) This complaint concerns Scott David Lowry, an attorney admitted to the bar on September 26, 1997 (see Exhibit 5, confirming Lowry's admission to the bar by Trish Heim, Attorney Registration, Kansas Supreme Court).

4.) Scott David Lowry was the foreman of the jury in United States v Pickard 5.) During voir dire by defense counsel, government counsel, and the court, Lowry denied that he had any legal training. 6.) During voir dire Lowry also denied knowing any government counsel. 7.) Investigation by the defense revealed that Scott David Lowry graduated from the Washburn University School of Law in 1987. 8.) Investigation further revealed that, within the Delta Theta Phi Directory of Students, a photograph of Scott David Lowry appears directly above that of Thomas Luedke, a prosecutor currently employed by the USAO Topeka. (Exhibit 3) 9.) Within the same directory is a photograph of Gregory Hough, the prosecutor acting as government counsel in United States v Pickard 10.) Inquiry to the Washburn University School of Law revealed that the. school is housed in ,a single building, and that "every student can know every other student" (see Exhibit 7 and Exhibit 8). 11.)

Inquiry to the Dean of Washburn University School of Law revealed that Scott David Lowry and Gregory Hough graduated on December 19, 1987 and May 17, 1986, respectively (Exhibit 4). 12.) Lowry was present and heard counsel's inquiry into the legal training of jurors Barker, Wehrly, McLean, Mason, Arand-Hopkins, and prospective juror Cochran, yet remained silent during and after the questioning of these jurors. (Exhibit 9) 13.) Lowry also remained silent during the questioning of jurors concerning their acquaintance with employees of the USAO Topeka, Wichita, and Kansas City. (Exhibit 10) 14.) I assert that Scott David Lowry has violated the Kansas Rules of Professional Conduct, viz. the relevant sections concerning, inter alia candor to the tribunal and false statements of material fact, engaging in conduct that reflects adversely on the lawyer's honestly and trustworthiness, engaging in conduct involving fraud, deceit and misrepresentation and engaging in conduct that is prejudicial to the

administration of justice. WHEREFORE AFFIANT SAYETH NAUGHT. I declare under penalty of perjury that the foregoing is true, correct, and complete, and not intended to be misleading, to the best of my knowledge and understanding William Leonard Pickard Executed this 24th of June, 2004 at Lompoc, CaliforniaWas ich nicht fressen darf Webalbum der Pflanzen starten Giftige Pflanzen mit tödlicher Wirkung sind: Seidelblast Alle Teile des Seidelblasts entahlten das Gift Mezerin. Bereits 30 Gramm können tödlich sein. Er veruracht starke Maulschleimhautschwellung und Darmentzündung. Bärenklau Alle Pflanzenteile des Bärenklaus und vor allem der Saft sind sehr giftig. Die Berührung der Pflanze in Verbindung mit Sonnenlicht verursacht Schwellungen und Blasenbildung. Das Fressen verursacht lebensgefährliche Schleimhautreizungen Aronstab Der Aronstab enthält neben Aroin auch Blausäure. Die gesamte Pflanze ist sehr stark giftig. Sie erzeugt

Schwellungen der Schleimhaut und Durchfall, einhergehend mit Magen-Darmblutung und Lähmung der Darmperistaltik. Schwarzes Bilsenkraut Alle Teile des schwarzen Bilsenkrauts oder Tollkrauts sind durch Alkaloidgehalt hochgiftig. Das Gift führt innerhalb von wenigen Stunden zum Tod. Eine Vergiftung äußert sich in beschleunigtem Herzschlag, Lähmungen und schweren Koliken. Buchsbaum Der Buchsbaum gehöhrt ebenfalls zu den tödlich wirkenden Pflanzen, 750 Gramm der kleinen Blättern reichen aus, um ein Pferd zu vergiften. Buchsbaum verursacht schwere Koliken und eine Lähmung des Nervenzentrums; der Tod tritt durch Herz- und Atemstillstand auf. Bucheckern Im Herbst finden sich in den Wäldern viele Bucheckern, doch sollte das Pferd von dem Verzehr abgehalten werden. Ein Kilogramm enthält bereits eine für Pferde gefährliche Dosis Gerbsäure. Blauer Eisenhut Alle Pflanzenteile sind hochgiftig, besonders jedoch die Wurzeln

und der Samen; sie enthalten das tödliche Gift Aconitin. Der Tod tritt bei einer Vergiftung bereits nach ein bis drei Stunden ein. Die Ursachen sind schwere Kolik, Durchfall und Nierenentzündung bis zum Nierenversagen. Eibe 100 Gramm Nadeln reichen aus um ein Pferd tödlich zu vergiften! Eibennadeln sind sehr weich, flach und glänzen; die Eibe trägt rote Früchte. Sie enthält die Gifte Taxin, Ameisensäure und Blausäure. Es entsteht ein Erregung, Pulsbeschleunigung und Herzstillstand. Fingerhut Das sehr starke Gift des roten Fingerhuts wird im Herzen gespeichert und 100 Gramm Blätter sind tödlich. Heftiges Schwitzen, Herz- und Kreislaufstörungen sowie Herzlähmungen sind die Folgen einer Fingerhutvergiftung. Engelstrompete Beim "Trompetenbaum" sind alle Pflanzenteile giftig. Bereits geringe Mengen erzeugen schwere Magen- und Darmkrämpfe und Koliken und bedeuten eine erhebliche Lebensgefahr für das Pferd. Grühne

Gartenbohne Die rohen Bohnen und besonders der Samen sind sehr giftig. Einige Stunden nach dem Fressen kommt es zu blutigem Durchfall, schwerer Kolik und erhöhtem Pulsschlag. Goldregen Bereits 200 Gramm des Samens des Goldregens enthalten eine für Pferde tödliche Menge Gift. Eine Vergiftung durch Goldregen zeigt sich in Speichelfluss, hastigem Atmen, Krämpfen und Durchfall. Der Tod tritt durch Atemlähmung und -stillstand ein. Liguster Wenn ein Pferd 100 Gramm Liguster frisst, reicht dies aus, es zu töten. Liguster ist eine weit verbreitete Heckenpflanze und ist oft in Ziergärten anzutreffen. Oleander Nur zehn Blätter Oleander genügen, um ein Pferd zu töten. Das in den immergrünen Blättern am stärksten konzentrierte Gift erzeugt im Anfangsstadium Durchfall und Kolik. Das Pferd stirbt letzendlich an Herzstillstand und Atemlähmung. Herbstzeitlose Die Herbstzeitlose ist ein sehr giftiges Knollengewächs und trägt im Volksmund den

Ruf einer Selbstmordpflanze. Sie bewirkt heftiges Schwitzen, Krämpfe und Kolik mit blutigem, schleimigem Durchfall. Der Tod erfolgt durch Atemlähmung und -stillstand. Stechapfel Hochgradig giftig sind die alkaloidhaltigen Samen, aber auch andere Pflanzenteile sind sehr giftig. Hat das Pferd nur wenige Gramm dieser Pflanze gefressen, tritt nach starkem Schwitzen eine Lähmung des Zentralnervensystems ein. Die Vergiftung hat einen tödlichen Atemstillstand zur Folge. Tollkirsche Die Blätter und der Samen der Tollkirsche sind hochgiftig, und nur 125 Gramm des Samens enthalten für ein Pferd eine tödlich wirkende Giftmenge. Die Pflanze enthält Atropin, dies verursacht beschleunigten Puls, starkes Schwitzen und Magen-Darm-Beschwerden. Schöllkraut Das Schöllkraut findet man an Mauern, Hecken und Schuttplätzen auf kalkhaltigem Boden. Das ganze Gewächs, aber vor allem der Milchsaft, ist sehr stark giftig. Es treten beschleunigter

Atem und blutiger Durchfall auf. Wasserschierling Der Stängel ist mit einem gelben Saft gefüllt, der sehr stark giftig ist. Bereits 10 Gramm sind eine für Pferde tödliche Dosis. Eine Vergiftung äußert sich in Gleichgewichtsstörungen. Der Tod tritt durch Atemlähmung ein. Giftige Pflanzen, die schwere Vergiftungen bewirken: Adonisröschen Das Adonisröschen wächst auf kalkhaltigem, trockenem Boden. Sein Verzehr verursacht Atemnot, Schleimhautschwellungen, Durchfall und Gleichgewichtsstörungen. Efeu Größere Mengen Efeu führen zu schweren Koliken, da er giftige Saponine enthält. Vorsicht bei Pferdeweiden, die an mit Efeu bewachsene Hauswände grenzen. Farne Adler- und Wurmfarn sind die gefährlichsten Vertreter dieser Gattung. Nervosität, Krämpfe und blutiger Durchfall sind die Folgen einer Farnvergiftung. Diese Symptomen können sich verstärken bei größeren Mengen Farn und zum Tod führen. Christrose Die Christrose ist

seltener anzutreffen und wächst nur auf humusreichen Boden. Alle Pflanzenteile sind aber giftig und verursachen Erregungszustände und Lähmungen des Zentralnervensystems. Ginster Ginster oder Besenginster sind giftig. Sie erzeugen hohen Pulsschlag und Lähmung der Atemwege; der Tod tritt durch Erstickung ein. Rohe Kartoffeln Rohe Kartoffeln und vorwiegend das Kraut der Pflanze sind absolut unverträglich. Es entstehen Darmreizungen, Krämpfe, Durchfall und schwere Koliken sowie Blutzersetzung. Jakobskraut Das Jakobskraut oder Kreuzkraut enthält Alkaloide und bleibt auch im getrocknetem Zustand giftig. Die Symptome einer Vergiftung zeigen sich in Verstopfung, Appetitlosigkeit und schwankendem Gang. Bei vermehrter Aufnahme können Leberschäden auftreten. Thuja Thuja, Lebensbaum und Zypressen sind häufig vorkommende Zierpflanze. Ihr Milchsaft enthält das giftige Euphorbon und ätherische Öle. Die giftigen Inhaltstoffe erzeugen eine

starke Schleimhautreizung und Koliken. Es kommt zur Leberdegeneration, die den Tod zur Folge haben kann. Lupinen Lupinen haben einen sehr hohen Eiweißgehalt und sind daher für Pferde sehr ungesund. Der Hauptanteil der Giftstoffe ist in den Samen enthalten. Sie enthält Alkaloide und bewirkt Erregungszustände, Krämpfe, Leberschäden und Hufrehe. Nachtschatten Der Nachtschatten hat weiße Blüte und dunkelblaue Beeren. Alle Teile der Pflanze sind giftig. Seine Alkaloide erzeugen Schwäche und Teilnahmslosigkeit bis hin zum Niederstürzen. Osterglocke Die Osterglocke als Blüte stellt an sich wenig Gefahr dar. Wird aber die Knolle gefressen, kann es zu sehr starken Kolikanfällen kommen. Tulpe Die Blüte der Tulpe stellt so wie die Osterglocke wenig Gefahr dar. Die Zwiebel jedoch führt ebenfalls zu starken Koliken. Pfaffenhütchen Das Pfaffenhütchen oder der Spindelstrauch wächst in Wäldern. Besonders der Samen dieses Strauches enthält einen sehr giftigen Bitterstoff.

Je nach gefressener Menge leiden die Pferde an Kreislaufstörungen, Magen-Darm-Problemen und Durchfall. Maiglöckchen Der Geschmack des Maiglöckchens ist scharf, bitter und widerlich. Alle Teile der Pflanze sind giftig. Bei übermäßigem Fressen kommt es zu Durchfall, Benommenheit und Kreislaufschwäche. Rhodondendron Die Rodondendronpflanze mit ihren schönen Blüten erzeugt Schleimhautreizungen, blutigen Durchfall und schwere Koliken. Robinie Die Robinie oder falsche Akazie ist giftig. Zu Beginn äußert sich eine Vergiftung durch Robinienzweige mit Kolik, später kommen Herzschwäche und Gehirnreizung hinzu. Der Giftstoff ist das alkaloidartige und eiweißartige Robin. Es verursacht Kolik, Darmblutungen und Dickdarmlähmungen. Stechpalme Die Stechpalme hat sehr harte, fast lederartige, dornig gezähnte Blätter. Daher fressen die Pferde sie nicht gerne und schwere Vergiftungen kommen selten vor. Giftige Pflanzen, die leichte

Vergiftungen erzeugen: Buschwindröschen Das Buschwindröschen gehört zur Gattung der Hahnenfussgewächse. Alle Pflanzenteile sind durch das Gift Anemonin gering giftig. Es können Reizungen der Mundschleimhaut und Rachenschleimhaut auftreten, und es kann zu Durchfall kommen. Berberitze Giftigster Pflanzenteil der Berberitze ist die Wurzelrinde, gefolgt von der Stammrinde. Blüten, Fruchtfleisch und Samen sind in der Regel alkaloidfrei. Schwache Vergiftungen können auftreten mit Durchfall und Krampfkoliken. Hahnenfuss Der Hahnenfuss ist im gesamten Pflanzenteil giftig. Fressen die Pferde versehentlich den Hahnenfuss, kann es zu Vergiftungen mit Schwellungen der Schleimhäute, Durchfall, Reizungen und Entzündungen im Magen-Darm- Bereich und zur Lähmung der Atemwege kommen. Eberesche Die Eberesche oder der Vogelbeerbaum ist schwach giftig und erzeugt in großen Mengen gefressen leichte

Magenverstimmungen. Feldmohn Der Feldmohn oder Klatschmohn führt zu Magenverstimmungen mit Kolik und Durchfall weil der Milchsaft giftige Alkaloide enthält. Gemüsesorten, die nicht verfüttert werden dürfen: Rohe Kartoffeln Rohe Kartoffeln und vorwiegend das Kraut der Pflanze sind absolut unverträglich. Es entstehen Darmreizungen, Krämpfe, Durchfall und schwere Koliken sowie Blutzersetzung. Kartoffelkeime Kartoffelkeime erzeugen Darmreizung, Krämpfe und Koliken mit fortschreitender Zersetzung des Blutes und gehören keineswegs auf den Speiseplan einer Pferdefütterung. Zwiebeln Zwiebeln verursachen nach länger andauernder Aufnahme Blutarmut, Gelbsucht und Harnverfärbung. Die roten Blutkörperchen werden geschädigt. Kohlgewächse Kohlgewächse führen zu Koliken weil sie Blahungen erzeugen. Kohlsorten dürfen daher nicht verfüttert werden. Tomaten Tomaten gehören ebenfalls nicht auf den Speiseplan des Pferdes, weil sie für den

Organismus des Pferdes schädlich sind. Bohnensamen Bohnensamen enthalten gefährliche Gifte und erzeugen schwere Koliken mit Zerstörung der Darmschleimhaut. Do c u m e n t i n g t h e co m p l e x R e l a t i o n s h i p B e t w e e n h u m a n s a n D p s y c h o a c t i v e s Erowid is a member- supported organization working to provide free, reliable and accurate information about psychoactive plants, chemicals, practices, and technologies. The information on the site is a compilation of the experiences, words, and efforts of thousands of individuals including educators, researchers, doctors and other health professionals, therapists, chemists, parents, lawyers, and others who choose to use psychoactives. Erowid acts as a publisher of new information and as a library archiving documents published elsewhere. The collection spans the spectrum from solid peer- reviewed research to creative writing and fiction. IN THIS ISSUE … Erowid Extracts “Psilocybin, Science, and Sacrament”,

page 4) is an instance of researchers attempting to connect the mystical and the scientific through psychoactive . Although some may take issue with the findings, research like this becomes part of a wider societal discourse about psychoactives and provides factual anchors for debating complex issues. Likewise, images can be a potent and accessible means to present data to people on either side of the fence. Over the years, we've put considerable energy into Number 11 November 2006 Recent News & Updates ..... 2 Letters & Feedback ..... 3 Psilocybin, Science & Sacrament .. 4 Linearization of the Dream State (Calea zacatechichi Exp) ..... 10 How Do You Know That? ..... 11 How You Can Help Erowid ..... 12 Photo Geekery ..... 14 Science Hits ..... 19 Breathtaking (2C-B Exp)..... 20 Erowid Presents ..... 22 Medical Toxicologists ..... 23 The

 “Truth springs from argument amongst friends.” — David Hume ridging communication and information divides is one of Erowid’s primary goals. We usually try to focus on the narrow chasms, like those between physicians and cannabis users, professionals and enthusiasts, researchers and students, parents and children. And, while we endeavor to stay out of the divisive world of politics, the controversies involved in our field necessitate that we interact with many who demand or expect partisan affiliation. People confront us with polarized views and questions: “What right-minded person could be in favor of jailing millions to support a failed second prohibition?” “What moral organization would want to teach people about the use of harmful illegal ?” When we were invited to speak at this year’s national gathering of clinical toxicologists (see “Erowid Presents”, page 22), we were warned that we should expect someone to accuse us of promoting illegal use. We chose

to focus our presenta- tion on the topic of “The Fence”, the phantasmal political divide that keeps some professionals —like the toxicologists in the audience —from working with Erowid. In the end, the divide between the medical toxicologists and ourselves was much smaller than we had anticipated. Many bridges already exist: the desire to help others, a geeky love of data and accuracy, reliance on digital communications, and an interest in how and why people use psychoactives. Bridges across difficult divides can be built from solid scientific research. The gap between those who believe that consuming psilocybin- containing mushrooms is wrong and those who believe that these mushrooms can help to facilitate mystical experience may seem to be too large to span. And yet the widely reported psilocybin study published in July (see B documenting, with camera and scanner, the culture surrounding psychoactives, as well as the plants and chemicals themselves (see “Photo Geekery”,

page 14). Early in Erowid's history, our photographs began showing up in unexpected places—from professional presentations to television news. These images pass more easily through partisan fences because they are often seen as having less inherent political baggage than text has. Yet they carry an aesthetic payload along with the factual information; and, when credited, they send the message that Erowid is a source of useful data. In this issue of Erowid Extracts, we try to highlight the work that our crew, members, and others in this field are doing to create a shared dataset—an information space that those on any side of imagined or real divides can contribute to and access. Fire & Earth # Erowid Extracts No. 11 / November #006 "scientific and medical evaluation" and recommends scheduling. The law requires the DEA and HHS to make an individualized determination for each substance, including such things as "actual or relative potential for abuse", "history and current pattern

of abuse", "scope, duration, and significance of abuse", and "risk…to the public health". There has only been one instance where the DEA emergency scheduled a which then failed to be permanently added to Schedule I. In 2004, HHS rejected the inclusion of TFMPP in Schedule I after the FDA found there was little evidence of actual abuse. TIHKAL & PIHKAL The DEA's information requests, essentially, ask whether there are any commercial, academic, or research uses for any of the chemicals listed in the Shulgins' TIHKAL and PIHKAL. Of the 53 tryptamines the DEA lists, 47 are described in TIHKAL, four are simple acetyl variants of TIHKAL chemicals, and the remaining two are allyl variants. Of the eleven TIHKAL chemicals that are not listed, seven are already scheduled, one is tryptamine itself, another is the widely-sold hormone melatonin, and the final two are harmine and harmaline. Further evidence that the tryptamine list is simply copied from TIHKAL is that it includes what Alexander

Shulgin calls 4-HO- tmd and the DEA calls "N,N-dimethyl-4-hydroxytryptamine", more commonly known as psilocin. This chemical has been explicitly listed in Schedule I since 1970, when the CSA was first passed. It seems that the DEA editors did not realize that this chemical is the already-scheduled psilocin. The DEA's phenethylamine list includes 165 chemicals. Although we did not examine the chemicals in this list exhaustively, it appears that all or nearly all are included among the 179 phenethylamines described in PIHKAL (14 of which are already scheduled). Positional Isomer Redefinition Normally, to add new substances to Schedule I, the DEA must follow the statutory process described above. However, in May of this year, the DEA published a proposed redefinition of the technical term "positional isomer". If this new definition becomes the approved legal definition, it would add dozens of previously unlisted chemicals to Schedule I without having to go through the normal process. The

"hallucinogenic substances" subsection of Schedule I states that "optical, position, and geometric isomers" of listed chemicals are automatically considered to be Schedule I. The existing CSA provides no definition or explanation of "position isomer", but it has generally been assumed that it includes only ring- substitutional changes, such as moving a group or chain from the 4-position to the 5-position on the ring. Most chemists we spoke with assumed that, under the new definition, MIPT would qualify as a positional isomer of DET, for example. But we did not get a consensus on this issue, and other molecular comparisons would be even less clear. The new definition would represent a change in the DEA's understanding of the term "positional isomer", since up to now they have treated PIHKAL and TIHKAL chemicals as controlled substance analogues and not as Schedule I isomers. The DEA states that the tryptamines and phenethylamines they list in their

information request “are not subject to direct control in Schedule I”. This strongly suggest that experts, even those who write and edit the DEA’s technical Federal Register entries, would not consider those chemicals “positional isomers” of a Schedule I substance without a change in definition. Because some labs must get DEA approval for each individual Schedule I substance they work with, this rule would significantly increase the burden on chemists who work with materials structurally similar to a scheduled chemical. Instead of just needing to track the list of controlled substances, they would need to determine if any of the intermediate or final chemicals they plan to work with would meet this definition and would then presumably need to apply for a license for each “positional isomer” they might encounter in their work. • Erowid.org/extracts/n11/dea.shtml Recent News & Updates … positional isomers of Schedule I cinogens are any and all substances which: (1)

Are not already controlled in a different Schedule I category, or are listed in another Schedule, or are specifically exempted from control by law; and (2) Have the same molecular formula and core structure as a Schedule I cinogen; and (3) Have the same functional group(s) and/or substituent(s) as those found in the respective Schedule I cinogen, attached at any position(s) on the core structure, but in such manner that no new chemical functionalities are created and no existing chemical functionalities are destroyed relative to the respective Schedule I cinogen; except that (4) Rearrangements of alkyl moieties within or between functional group(s) or substituent(s), or divisions or combinations of alkyl moieties, that do not create new chemical functionalities or destroy existing chemical functionalities, would be within the definition of positional isomer (and therefore be controlled). Requests for Information On August 4, 2006, the DEA published a Federal Register entry

requesting information about the commercial, academic, and research uses for 53 named tryptamines, as well as a more general request for information about similar chemicals. On October 20, they published a parallel entry asking about a list of 165 phenethylamines. The Federal Register entries indicate that these chemicals are not already scheduled. The information requests make direct reference to existing Schedule I substances and state that "some of these substances can be treated as controlled substance analogues if intended for human consumption". Although they do not directly identify their purpose, these requests seem to represent information gathering in preparation for adding some or all of these substances to Schedule I. The Controlled Substances Act (CSA) gives the DEA the authority, as delegated by the Attorney General, to schedule a new after the Secretary of Health and Human Services (HHS) implements an eight-factor Proposed Definition of "Positional

Isomer” DEA Moves to Expand Schedule I by Earth Erowid # Erowid Extracts No. 11 / November #006 Letters & Feedback Erowid Extracts Number 11, November 2006 Know Your Body Know Your Mind Know Your Substance Know Your Source I just wanted to give y’all a big thanks for all of the work behind the web site. I work in the local emergency department providing mental health services and assessments, and have been a long time fan of Erowid. Recently we had a patient who reportedly took 2C-E in combination with , a trip that lasted at least 24 hours. Initially hospital staff thought he was psychotic, since “no trip could last that long” and they thought 2C-E was something that the patient made up. I was able to take that moment to not only educate the department, but also to have the patient properly diagnosed and released as opposed to hospitalized, due in part to your web site. Additionally, when my supervisor discovered how the case was handled she chose

to check out Erowid and recommended that all of the crisis teams utilize your site for information for future cases. While we aren't the biggest town, as a town that is home to several colleges we see our share of cinogen (and other substance) use. Hopefully the information you provide will continue to help educate our team to insure the best possible treatment for our patients. Thank you again for all of your hard work. — EDmunD RobInSon, m.ED., QmHP Oregon, USA I did a REALLY stupid move a month back (I'm writing you a "trip report" to follow in a few weeks) regarding WAY too much salvia, not knowing what I was getting into. Since then I have researched your site, it is the best on the internet for educational information. You people are invaluable! Words alone don't do it. I would give more as a donation but at the moment am financially strapped and between jobs, but feel it very important that I do so. Keep up the excellent work! — J.b. Donation Message Thanks for

filling an important niche with your website—it is a valuable repository of knowledge and I look forward to seeing it grow and prosper! — C.J. Donation Message I use Erowid for accurate information about psychoactive plants and compounds. Erowid has credibility in critical subcultures that desperately need such information. — ERIC E. STERLIng The Criminal Justice Policy Foundation Thank you, thank you, thank you for all that you guys do! I have used your site year after year and am truly grateful for this invaluable resource. — K.K. Donation Message I've been frequenting the site a LOT in the past five months or so and have found that it has helped me commensurately. Erowid has helped me develop as an individual, understand certain aspects of society and make responsible and informed decisions about psychoactives that education programs just don't allow for. I just wanted to say thanks. — R.D. Erowid Email 90% of my education comes from Erowid. Keep up the important work! —

g.W. Donation Message Your website is extraordinary. not only has it helped convince me of the value of accurate and unbiased information with regard to mind altering substances, it has inspired me to become a student of chemistry! It is my pleasure to contribute what I can on my limited budget. Keep up “the good fight”, and keep me informed! — b.W. Donation Message Founder, Editor in Chief Founder, Executive Editor Managing Editor Art Curator The Erowid Review Fire Erowid Earth Erowid Sylvia Thyssen Christopher Barnaby Erik Davis Associate Editors Jon, Zachawry Crew Lux, Psilo, Bo, Embroglio, Stu, Scott O. Moore, Della Report Reviewers & Triagers Zetetic, Blinkidiot, Kernel • Antheia, RevMeO, Jonah, Buttaz, Sugarmagnoliagirl, Aria, Ben, Biglo, William, Shamanix, Survival, Node, Noelle, Xorkoth, sii, Aqua, Optic, Catfish, Mephisto, Uil, JHaven, PsyKey, PsyCompUK, Raoul, Baltick, Amittlmr, Bak0r, SSC, Gazman Erowid

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Correspondence To: extracts@erowid.org Please include your name, title, and city/state/country of origin to be published with your letter. Letters may be edited for length and clarity. # Erowid Extracts No. 11 / November #006 Psilocybin, I. IntroductIon In July of this year, Johns Hopkins University announced the results of a new study published in the journal Psychopharmacology. 1 In an experiment described as “landmark” and “ground-breaking”, thirty-six participants were administered either psilocybin, the active ingredient in cinogenic Psilocybe mushrooms, or methylphenidate (Ritalin), an active comparison substance, in a carefully structured environment. Thirty of those participants were administered both substances in a triple-blinded, counterbal- anced procedure. According to the report, In an essay written in 1964, Maslow observed: In the last few years it has become quite clear that certain called “ ,” especially and psilocybin, give us some

possibility of control in this realm of peak-experiences. It looks as if these often produce peak- experiences in the right people under the right circumstances, so that perhaps we needn't wait for them to occur by good fortune. Perhaps we can actually produce a private personal peak- experience under observation and whenever we wish under religious or non-religious circumstances. 2 Maslow may have been thinking of the 1962 Good Friday Experiment 3 , in which Walter Pahnke administered capsules containing 30 mg of psilocybin to ten theology students and the active placebo nicotinic acid to ten additional students as a control. Subjects spent the duration of the experiment in a basement room of Boston University's Marsh Chapel while listening to a live broadcast of the Good Friday service being conducted in the main sanctuary upstairs. Pahnke undertook the study in order to "investigate in a systematic and scientific way the similarities and differences between

experiences described by mystics A Look at the Research of and Response to the Johns Hopkins Study on Psilocybin and Mysticism by Lux Science, and Sacrament “67% of the volunteers rated the experience with psilocybin to be either the single most meaningful experience of his or her life or among the top five most meaningful experiences of his or her life.” 1 While many Erowid members are undoubtedly familiar with this study, and are not surprised to hear that s can occasion mystical experiences, I wanted to take a deeper look at the historical context for the research, important methodological and theoretical issues, and the reception of the story in the media. In addressing these topics I had the opportunity to speak with Bob Jesse, co-designer of the study, co- author of the Psychopharmacology article, and chairman of the Council on Spiritual Practices (CSP). II. Back In the day Psychologist Abraham Maslow dedicated his career to the study of “peak-experiences” (similar to “mystical experiences”

or “primary religious experiences”). Maslow describes these as being characterized by qualities such as transcendence, unity, awe, wonder, compassion, and love. 2 These experiences, he believed, are commonly available, and may have inspired many religious traditions. Psilocybin Molecule (image by Erowid) Erowid Extracts No. 11 / November #006 # and those facilitated by .” 3 He created a questionnaire designed to objectively measure mystical experience based on nine categories, including a sense of unity, a sense of sacredness, and deeply felt positive mood. Subjects were interviewed after the session and again after six months. Most were also interviewed 24 to 27 years later in a follow-up study conducted by Rick Doblin. 4 The majority of subjects who received psilocybin scored highly on most or all of the nine categories of the mystical experience measure, while the control group scored much lower on average. Pahnke concluded that psilocybin might reliably induce mystical

experience. He observed, “The results of our experiment would indicate that psilocybin (and and mescaline, by analogy) are important tools for the study of the mystical state of consciousness.” 3 Pahnke’s study has been described by one expert as “perhaps the most famous study in the psychology of religion.” 5 Despite methodological weaknesses pointed out by Doblin and others, Pahnke’s experiment is noteworthy because he examined a potential “trigger” of mystical experience, thereby paving the way for future research. As Pahnke and Maslow noted, if psychoactive compounds can trigger religious experience, it may be possible to conduct experimental investigations of these experiences. Experiments into the psychology of religion are relatively rare, with most research traditionally being descriptive rather than experimental. III. hIatus Despite the widespread interest in and the promise of Pahnke’s findings, little direct follow-up research has been conducted. The landscape of

research changed dramatically in the ten years after the Good Friday Experiment. A spate of new control laws in the mid-1960s, crowned by the U.S. Federal Controlled Substances Act of 1970, added daunting regulatory hurdles. New regulations designed to protect research participants, such as the Research Act of 1974, made it harder to experiment on human subjects. Public backlash against the use of s during the 1960s also curbed the enthusiasm of both researchers and funders. cinogens were caricatured by the mainstream media as dangerous counterculture . One of the last formal clinical studies to administer cinogens and look for beneficial results involved Dr. Bill Richards at Spring Grove in Baltimore, who years later joined CSP as a Senior Fellow and co-authored the Hopkins study. Approved research investigating the positive aspects of scheduled s otherwise ground to a halt. A renewal in the field began slowly in the United States in the 1990s, most notably with Rick

Strassman's study of injected tmd. 6 As Alexander and Ann Shulgin noted in 1997, "tmd is the only tryptamine that has recently been taken through the Kafkaesque processes for approval for human studies (via the FDA, the DEA, and the other Health agencies of the Government) and is one of the few Schedule I that is being looked at clinically in this country today." 7 However, Strassman's research design touched only tangentially on the study of psychoactives and religious experience, limiting itself to "a re-examination of the human psychobiology of […] N,N- dimethyltryptamine (tmd)". Strassman intentionally avoided mention of his mystical interests for political reasons. 6 Important research was also conducted outside of the United States during that time period, including research on the religious use of ayahuasca in South America, and a series of studies on cinogens by Franz Vollenweider in Switzerland. IV. an experIment Is Born Enter the Council on Spiritual Practices

in 1994. CSP's mission is "to identify and develop approaches to primary religious experience that can be used safely and effectively, and to help individuals and spiritual communities bring the insights, grace, and joy that arise from direct perception of the divine into their daily lives." 8 Bob Jesse, then president of CSP, coordinated the development of CSP's research interests, including organizing several scientific meetings from 1996 through 2000 that led to and supported the Hopkins/CSP psilocybin study. "I was fortunate to have been introduced to Roland Griffiths, whose leadership as a research psychopharmacologist and curiosity as a serious meditator made him a godsend of a principle investigator", Jesse said. 9 CSP staff, including Jesse and Richards, were Walter Pahnke (circa 1963) Photo courtesy Bill Richards significantly involved in the project. Fire and Earth of Erowid, who worked for CSP in the late 1990s, also assisted in early design and coordination

efforts. CSP's goal was to develop an experiment sensitive to the full range of psilocybin's reported effects, including spiritual effects. Psilocybin was selected as the research compound early on. As Jesse explains, "There are just some really good pharmacological reasons. It's a naturally occurring substance, used by humans for centuries. Modern medicine has confirmed its track record of being non-addictive and physically non-toxic, though not without behavioral, psychological, and spiritual risks. And its duration of action fit the needs of our study." With a draft of the research protocol in hand and a team assembled, they began seeking regulatory approval from Johns Hopkins as well as the FDA and DEA. Their first step was to submit the proposal to the FDA for review. Jesse said that process went relatively smoothly: "I had heard stories of other protocols hitting hitches and stalling, but that was not our experience at all. We benefited, I'm sure, from the FDA having Pahnke's study has

been described by one expert as “perhaps the most famous study in the psychology of religion.” 6 Erowid Extracts No. 11 / November #006 reviewed Strassman’s protocols before us, and from Roland’s long experience working with the FDA.” The experiment required approval from the DEA to work with a Schedule I substance. Because Griffiths’s lab was already licensed to work with Schedule I substances, this approval was granted without complications. Participants were recruited in Baltimore through flyers announcing a “study of states of consciousness brought about by a naturally occurring psychoactive substance used sacramentally in some cultures.” 1 Respondents were screened for psychological and medical health, as well as ongoing participation in a spiritual community such as a church or meditation group. Jesse explained that people with a demonstrated interest in spiritual matters might be better prepared to make sense of mystical experiences. Also, those with an active

spiritual life and who participate in a spiritual community "may be in a better position to assimilate their experiences and to turn them to abiding good in their lives." V. LIft-off With the necessary permissions in place, the team began the experimental protocol. Great care was taken to ensure subject comfort and safety. Session monitors/guides were mental health professionals selected on the basis of their experience, reassuring demeanor, and training. Volunteer subjects met the primary guide, Bill Richards, several times prior to their first session to establish a comfortable rapport. During the eight hours of preparatory sessions, the guide discussed the range of effects of psilocybin (covering possible alternative states of consciousness including sensory- aesthetic, psychodynamic, psychotic, symbolic-archetypal, and mystical), and inquired about the volunteer's life history. During these sessions the monitors avoided mention of the measurement questionnaires and their

categories. The final preparatory session was held in the same room used for the experimental sessions in order to allow volunteers to become familiar with the room and “test drive” the couch with headphones and eyeshades. This preparatory session also covered practical matters, such as how blood pressure monitoring would occur and how to deal with possible nausea or trips to the restroom. The study was triple-blind, in that neither researchers, nor monitors, nor volunteers knew if the volunteers were receiving psilocybin or a control. Further, neither monitors nor volunteers knew which control would be used. They had been given a list of possible control , including an inactive placebo, low-dose psilocybin, dextromethorphan, codeine, and eight other , in order to make it difficult to know whether the session was a control session even after psychoactive effects began. The psilocybin dose was set at 30 mg per 70 kg body weight, considered by researchers a “high safe dose”

able to induce a strong experience. 1 Methylphenidate (40 mg per 70 kg) was selected as the comparison substance (an "active placebo"), as its somewhat similar physical and mood- altering effects could realistically be mistaken for psilocybin by -naïve participants. The journal article describes the experimental sessions as follows: The 8-h sessions were conducted in an aesthetic living- room- like environment designed specifically for the study. Two monitors were present with a single participant throughout the session. For most of the time during the session, the participant was encouraged to lie down on the couch, use an eye mask to block external visual distraction, and use headphones through which a classical music program was played. […] The participants were encouraged to focus their attention on their inner experiences throughout the session. If a participant reported significant fear or anxiety, the monitors provided reassurance verbally or physically (e.g., with a supportive touch to the

hand or shoulder). 1 Blood pressure and pulse were taken unobtrusively, and seven hours after the session began, subjects were administered five carefully-selected questionnaires. Two of these measures were based on those that Pahnke and Strassman developed for their work with psilocybin and tmd, respectively. One questionnaire, the Hood Mysticism Scale, was originally developed to evaluate mystical experiences and had not previously been used in psychoactive research. Two months after the first session, a series of follow-up questionnaires were administered to gather data about long- term effects. A second session was then conducted in which subjects who had previously received the methylphenidate now received psilocybin, and vice versa. 10 An additional follow-up assessment was conducted two months later using the same set of questionnaires. One novel element of the study design was that each subject designated three adults Volunteer Ratings Completed 2 Months

After Sessions Description Methylphenidate Psilocybin Positive attitudes about life and/or self ##.8 ##.0 Negative attitudes about life and/or self 0.# 0.# Positive mood changes 16.0 #9.# Negative mood changes 0.6 1.# Altruistic/positive social effects 17.# #6.6 Antisocial/negative social effects 0.# 0.7 Positive behavior changes #9.# 60.0 Negative behavior changes 1.7 0.0 How personally meaningful was the experience? #.## 6.## How spiritually significant was the experience? #.6# #.79 Did the experience change your sense of well-being or life satisfaction? 0.79 #.0# Data are mean ratings. Data on attitude, mood, social, and behavior changes are expressed as percentage of maximum possible score, and data for the last # questions are raw scores. Erowid Extracts No. 11 / November #006 7 who would be in close contact with them in the months following the experiment. During the two-month follow-up, these “community observers” were administered questionnaires by telephone

that were designed to track observable, lasting changes in the subjects. Community observers were used to corroborate self- reports by the participants and to keep an eye on their mental well-being. VI. resuLts Psilocybin appeared to be effective in generating mystical experiences as measured by the study instruments. Griffiths et al. reported that "22 of the total group of 36 volunteers had a 'complete' mystical experience after psilocybin […] while only 4 of 36 did so after methylphenidate". In the two-month follow-up, large numbers of respondents ascribed great significance to the experimental sessions: "Thirty- three percent of the volunteers rated the psilocybin experience as being the single most spiritually significant experience of his or her life, with an additional 38% rating it to be among the top five most spiritually significant experiences." This contrasts starkly with the experience of the control condition. "After methylphenidate, in contrast, 8% of volunteers rated the experience

to be among the top five (but not the single most) spiritually significant experiences", and none rated it as the single- most significant experience. 1 About 30% of subjects reported "strong" or "extreme" feelings of fear during the experiment. Two of the subjects likened their experience to "being in a war", and three indicated "they would never wish to repeat an experience like that again." Experiences of fear were most often confined to limited portions of the experimental session. While similar in design to the Good Friday experiment, the Hopkins study amplified Pahnke's findings in several important aspects. In the former, the double- blind was broken as soon as the effects of the psilocybin became apparent. Because it quickly became clear which subjects had received psilocybin, they may have been treated differently by other subjects and monitors, potentially influencing the results of the experiment. In contrast, the Griffiths study was much more rigorous about preserving the

integrity of the triple-blind: methylphenidate so well mimicked the experimental condition that even expert monitors mistakenly believed subjects had been given psilocybin during 23% of the control sessions. This design minimized risks that monitors would introduce bias through their own actions. VII. expectancy QuestIons A common issue with research into spiritual experience is that expectation and preparation may hinder measurement validity. This is similar to the well- known “set and setting” aspect of , where factors such as the background of the subject and the context of the experience can strongly influence the experience and its interpretation. Simply put, subjects expecting a mystical experience may be more likely to have one. One critic of the study, Dr. Rosamond Rhodes of Mount Sinai School of Medicine, has argued that the expectancy effects damaged the validity of the results. Dr. Rhodes contended, “After each administration of the , they gave people the same set of questionnaires. As you

ask people these questions each time, you are also directing them to focus that way […] You are encouraging people to close their eyes, to concentrate, and you are not just doing this to regular people but to people who are religiously inclined. They are suggesting that this is what you are going to get from the , so they find a great deal of that sort of response, particularly to the psilocybin." 11 Jesse responded to Rhodes's criticism by pointing out that the study was designed specifically to control for expectations. As Dr. Charles Schuster noted in his commentary, "These participants were well-prepared for the psilocybin experience by an experienced monitor, who expressly stated that psilocybin might produce increased personal awareness and insight. However, it is clear that the effects of psilocybin were more than expectancy effects because the active control condition (40 mg of methylphenidate) did not produce similar effects on ratings of significance or on measures of spirituality,

positive attitude, or behavior." 12 It is nonetheless important to note that the design of the experiment limits the degree to which its results can be generalized. Participants were selected partially for Psilocybin appeared to be effective in generating mystical experiences as measured by the study instruments. Psilocybin is converted after ingestion into psilocin, the chemical active in the brain. Most Psilocybe mushrooms contain a mix of psilocybin, psilocin, and baeocystin. While published data about the psilocybin/psilocin content of mushroom species is somewhat sparse, estimates are that normally potency Psilocybe cubensis (the most common psychoactive mushroom available in the United States) contain around 0.#–1.0% total psilocybin + psilocin, by dry weight. The Griffiths study administered oral psilocybin at 30 mg per 70 kg body weight. This is 0.43 mg/kg or 0.20 mg/lb. For someone weighing 70 kg (154 lbs), this is the approximate equivalent of #–6 dry grams of

Psilocybe cubensis mushrooms. Potency in wild species can vary by up to 1000%, but in commonly available dried mushrooms this variation is likely closer to ±50%. Very strong P. cubensis may contain 30 mg psilocybin in 2.5 dry grams and weak mushrooms may only contain #0 mg in 8 grams. • 1. Trout K. Some Simple Tryptamines. Mydriatic Productions. #00#. pg 7#–7#. #. Gartz J. “Extraction and analysis of indole derivatives from fungal biomass.” Journal of Basic Microbiology. 199#;##:17–##. ask erowid Q What is the equivalent of 30 mg pure psilocybin in dry weight of Psilocybe cubensis mushrooms? 8 Erowid Extracts No. 11 / November #006 their involvement in spiritual practices and prepared for a range of effects that included mystical experiences. Moreover, some of the outcome measures clearly targeted mystical experience. As the researchers wrote, “it seems plausible that the religious or spiritual interest of the participants may have increased the likelihood

that the psilocybin experience would be interpreted as having substantial spiritual significance and personal meaning." 1 As Jesse observed, it remains to be seen how strong the spiritual effects would be in other populations, such as volunteers without a demonstrated spiritual inclination. Despite these qualifications, the study did provide strong evidence that, within its parameters, psilocybin was effective in catalyzing highly meaningful mystical experiences. VIII. the story Breaks The results of the experiment were announced on July 11, 2006. Johns Hopkins issued a press release and, in an unusual move, their website hosted the complete Psychopharmacology article and accompanying commentaries by four distinguished experts, including Dr. Herbert Kleber, former Deputy Director of the White House Office of National Control Policy. The university also released a series of questions and answers about the study by Dr. Griffiths. The Associated Press wire was widely circulated,

but many news sources wrote their own more detailed articles, including ABC News, The Wall Street Journal, The Economist, The Japan Times, New Scientist, and Forbes, among others. The news was featured as a top story on CNN.com for more than a day, and as a link on their science page for several additional days. The accuracy of media reports varied widely. Minor inaccuracies were common even in carefully-written pieces. For example, several articles failed to distinguish between informal self- reports by subjects and the results of standardized measurements. The AP report claimed that, "Twenty-two of the 36 volunteers reported having a 'complete' mystical experience, compared to four of those getting methylphenidate." 14 This implies that those subjects merely said something like, "I had a mystical experience", when in fact, they "met criteria for a 'full mystical experience' as measured by established psychological scales", 15 and may never have used the term "mystical

experience" themselves. Some news outlets emphasized the anxiety and fear aspects, giving the impression that volunteers experienced only extreme fear during the session. For example, The Wall Street Journal reported that "in 30% of the cases, the provoked harrowing experiences dominated by fear and paranoia", 16 omitting the fact that Griffiths et al. reported that "no volunteer rated the experience as having decreased their sense of well being or life satisfaction." 1 The Baltimore Sun began their article with, "The cinogen in the 'magic mushrooms' of the 1960s can produce terror, paranoia and schizophrenia, but it can also spark a religious and mystical experience that leaves the user feeling kinder and happier". 17 The Japan Times article was particularly amusing, and offered this description of the study's findings: "New research shows that for some of those who revel at music festivals like the Fuji Rock Festival in Japan, the most spiritually significant thing they will have ever done was

taking a psilocybin trip while soaking up the sounds." 18 Many reporters remarked with varying degrees of seriousness that this study corroborates what the 1960s counterculture knew all along: that spiritual insight may be gained through the reflective use of psychoactive substances. But this was often reported with a wink by including humorous references to , hippies, and tie-dyes. Take, for example, the ABC News article titled "Tripping Out": "This may come as no surprise to the flower children of the 1960s, but in one of the few controlled human studies of a known illegal cinogen, the active ingredient in 'sacred mushrooms' created what researchers are describing as deep mystical experiences that left many of the study participants with a long lasting sense of well-being." 11 The article's title and tone suggest that the very idea of finding spiritual insight through the use of s is silly. Yet many of the articles also conveyed a sense of fascination. Despite minor errors, most

of the coverage was quite accurate, balanced, and surprisingly positive. Credit for this goes in part to the research team for inviting critical feedback on the study design from outside experts before the research began. Ix. the scIence of spIrIt Experimental research in the psychology of religion has received increased interest in recent years. 19 The Griffiths study has broad implications for future research as it offers a robust experimental model that may promote further studies not only on the neurochemistry of cinogens, but on the mystical experience itself. Indeed, the use of the term "mystical experience" is provocative and controversial. Very little is known about how psilocybin produces its effects, yet the Hopkins researchers concluded that, "When administered under supportive conditions, psilocybin occasioned experiences similar to spontaneously occurring mystical experiences." 1 Similar in terms of the effects the researchers measured, perhaps; but many mystical traditions insist that

Despite minor errors, most of the [media] coverage was quite accurate, balanced, and surprisingly positive. Psilocybe cubensis (photo by Ben) Erowid Extracts No. 11 / November #006 9 they deal with phenomena that cannot be described. This is reminiscent of the famous opening lines of the Tao Te Ching, “The Way that can be spoken is not the eternal Way.” Is it possible to study or measure such experiences? “Any dialog around that question would be strongly contingent on what it is that those quantitative measures purport to measure”, Jesse answers. “Mystics tell us that the core experience can’t be pinned down in words. But can’t we report what we find nearby? It’s like the sun– if you try to stare at the sun itself you probably won’t glean much to say except, ‘bright!’. But you can make more detailed observations about the halo around the sun, and turning around, you can see its effects on the world around you.” In a similar sense, he argues, we can measure the effects of a religious

experience without having to fully characterize the experience itself. “Notice,” he says, “that we did not even try.” According to subjects’ scores on the Hood Mysticism Scale—a questionnaire originally developed for the study of non--related religious experiences—the experiences of study participants were indistinguishable from more conventional forms of mystical experiences. However, measurement may not be the final word on mystical experience. How do we distinguish between a “powerful” experience and a “mystical” experience? Sigmund Freud argued in The Future of an Illusion and Civilization and its Discontents that what people describe as a mystical experience is in fact a recollection of an infantile state of unity with the mother. Freud argues that when people report a mystical experience, they are in fact experiencing a neurotic episode. I put the question to Jesse directly: Do you think that the subjects of this study experienced an actual primary religious experience? “Wisdom has it,”

he replied, “that it’s the consequences of a reported religious experience that gives the best evidence of its authenticity. ‘By their fruits shall ye know them.’ This research References 1. Griffiths RR, Richards WA, McCann U, Jesse R. “Psilocybin can occasion mystical- type experiences having substantial and sustained personal meaning and spiritual experience”. Psychopharmacology. #006;187(#):#68–8#. Accessed Oct 2006; http://www.hopkinsmedicine.org/ Press_releases/2006/GriffithsPsilocybin. pdf. #. Maslow A. Religions, Values, and Peak-Experiences. Viking Penguin. 1964. 3. Pahnke W. “ and mysticism”. Int J Parapsychology. 1966;8(#):#9#–#1#. 4. Doblin R. “Pahnke’s ‘Good Friday Experiment’: A long-term follow-up and methodological critique”. J Transpersonal Psych. 1991;##(1):1–#8. 5. Hood RW Jr, Spilka B, Hunsberger B, et al. The Psychology of Religion. The Guilford Press. 1996. pg. ##6. 6. Strassman R. tmd: The Spirit

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medicine.org/Press_releases/#006/07_11_06.html. 16. Winslow R. “Go Ask Alice: Mushroom Is Studied Anew”. Wall Street Journal. Jul 11, #006. 17. Emery C. “Hallucinogen Found To Have Diverse Effects”. Baltimore Sun. Jul 11, #006. 18. Hooper R. “Guinea Pigs Hail ‘Mystical Experience’”. Japan Times. Jul 1#, #006. 19. Austin J. Zen-Brain Reflections. MIT Press. #006. Perhaps questions raised b y a l t e r e d s t a t e s o f consciousness have greater social relevance than most would expect. gave us data, some from self-reports and some from community observers, suggesting that some volunteers became kinder after their psilocybin experience. Would psilocybin always occasion primary religious experience? Of course not. Can it sometimes? This study gives us good reason to say ‘yes’, and good reason to look further into what factors account for varying consequences.” x. ImpLIcatIons However we interpret the findings, the response to this research may be a

useful barometer to measure modern society's relationship to s. It is striking that the story received such widespread coverage not just among specialists, but within society at large. Perhaps questions raised by altered states of consciousness have greater social relevance than most would expect. This research has provided a solid mooring for discussion in the face of entrenched skepticism toward the notion that s may be profound tools of self- discovery. The conversation around psychoactives is easily distorted on both sides. Over-zealous advocates may minimize risks, while over-zealous critics may exaggerate them. The study is significant for contributing concrete data to the conversation, although it may ultimately prove impossible for opposing sides to agree on one interpretation. In a similar vein, Jesse noted: "The study may help people to better understand different psychoactives by their differing properties and differing risks, breaking down overly-broad categories. I also hope it calls

more attention to primary religious experience, whether occasioned by psychoactives or through other means." While the long-term consequences of this study have yet to be seen, one can speculate that where well- respected researchers lead, others will more easily follow. The rigorous language of science can encourage people to listen to and consider issues they might otherwise dismiss. Now that recent investigations have begun to legitimize the study of sacramental use, the door stands open to further research in the same vein. Indeed, it is already underway.

• Erowid.org/extracts/n11/psilocybin.shtml

Erowid Extracts No. 11 / November #006 10

This is a report of my three-day experimentation with Calea zacatechichi, which I found quite rewarding. I came across this plant browsing online, which got me interested in its reported effects. I usually recall my dreams quite well but they are most often very strange, which stops me from really going into much detail; so

the fact that Calea zacatechichi reportedly helps produce vivid realistic dreams caught my attention. I ordered 28 grams of calea, which I thought would be a reasonable quantity to begin with, and it was. Day I: Around 12:00 am I made a cup of Calea zacatechichi tea, simmering 3.4 grams of material for about 15 minutes. The tea was a dark copper-tainted brown and smelled really good. Having been warned of the bitterness by several reports, I added heaps of sugar and a few spoonfuls of honey to the tea. This did not drown out the bitterness to the extent I had hoped for, and the tea was the worst tasting drink I had ever tasted, but I considered this the price I had to pay for this new experience and drank the tea while watching a movie. By the end of the cup I felt a light buzz, but it was mostly just a sort of semi-conscious relaxation. When the movie was finished (T+1h 45m) I went out onto the balcony to smoke a joint, which I had previously rolled, containing 0.5 grams calea.

This confirmed the sensation I had been feeling up to now and I felt quite light-headed and very relaxed. It also gave me a strong urge to sleep so I complied. Lying down in my bed in an utterly dark and silent room was very interesting. Faint little dots of light danced around my eyes, arranging themselves into swirling patterns. As I relaxed it felt as if I was an integral part of my bed, which was really pleasant. I definitely dreamed that night but I do not remember much of it. The images were still quite hazy. Upon awakening the next day I felt very relaxed, as if I'd had a great night's sleep, which wasn't especially the case. I attributed the poorness of my dream experience to the fact that I may not have used enough Calea zacatechichi or that I hadn't been using it long enough, so I decided to repeat the experiment the following evening.
Day II: Towards 12:00 am I made a cup of calea tea, by the same method, using close to 4 grams this time. Again I drank it while watching a movie and I felt a slightly stronger buzz this

time. I also added a little milk to the tea and it seemed quite a bit less bitter that the previous night, but then again maybe it was because I knew exactly what to expect this time. By the end of the movie (T+2h) I went out on the balcony and had a calea joint (0.7 grams) which got me lightly stoned in a calea kind of way. The effects are very hard to describe and I believe they are greatly due to the setting (nighttime, calm and being alone) but the experience is quite pleasant if I get into it. Personally I do not find that the smoke tastes too bad, it's definitely way better than the tea. Again I lay down in bed and, when I closed my eyes, I sensed swirling patterns of the dotted dim lights all around me. If I concentrated on them it was as if they were being fed into a sort of vortex that led to my mouth. LInearIzatIon of the Dream State An Experience with Calea zacatechichi Calea zacatechichi, also known as "Aztec dream herb" and "bitter herb", is a medium-sized lanky shrub native to the

highlands of central mexico. It is known for potentiating dreams when taken before sleep. Its leaves and stems are either brewed into a tea (despite its extremely bitter taste), or the dried leaves can be smoked. Photo by Batman 11 Erowid Extracts No. 11 / November #006 That night I had a very vivid and slightly disturbing dream. Contrary to my usual dreams, it was remarkably linear. Its contents were slightly less weird than my average dream but the detail was amazing. At one point in my dream I was skiing; I can clearly remember the mountain landscape in every detail. During a jump, I could feel the wind rushing by and the adrenaline surge throughout my body. It was quite a fantastic experience, the way every one of my senses, as well as my mind, felt similar to the waking state. This also applied to uncomfortable situations in the dream though, which made it slightly more disturbing than my average dream. I awoke feeling refreshed, but my mind was in a sort of a daze, taking a while

to come to grips with the content. This time I was more than satisfied with the effect and I greatly looked forward to the coming night's "dream tripping". Day III: I was now quite aware of the potential of this plant and so I wondered what it would be like to increase the dose significantly. So I prepared a tea like the night before, around 11:00 pm, and drank it while listening to music in my dimly lit room. This was really pleasant as I could enjoy the music much more with a sort of great mental clarity. I then rolled two calea joints (0.5 grams each) for later on and proceded to make a second cup of tea (T+1h), this time with only 3 grams of material. Once more I drank this while watching a movie. I then headed out to the balcony and smoked both joints (T+2h50m), with a few minutes break in between. By the end of the second joint I was more than relaxed, quite drowsy and light- headed, and my coordination and stability were slightly affected (although nowhere close to what weed can do to

me, which is why I do not believe this to be a serious alternative to weed). Again, there were patterns as I lay down to sleep and in a semi-sleeping state I could picture myself being a plant. It felt interesting even though it was a vague sensation. I don't know why, but the result was another linear dream. This time I had great difficulty recalling much of it. It could be that raising the dosage was the cause for this, but there are so many other factors that play a role in dreams that this is not a conclusive experiment in my eyes. I will pursue more experimentation with Calea zacatechichi in the future. Overall, this plant's effects seem interesting and unique. The only downside is the taste of the tea, which took a good bit of determination to get past. But there were no notable side effects or hangover. I would classify it as relaxing, mildly halucinogenic, and with a noticeable effect on dreaming. • Erowid.org/exp/exp.php? ID=55558 How Do You Know That? I'm a native of Germany,

where I am a university student. My interest in is born of academic curiosity, triggered by a documentary about Dr. . I used to reside in a small village where several students lived in a small student dormitory. We were ten students and two families living in small apartments, housed in a converted barn. One of our neighbors was a police officer who had just finished at the police academy and was now walking a beat. She comes from a town near my own hometown, and is one year younger than me. We occasionally discussed our common interests in current events and mountain biking and every now and then she'd tell me about something that had happened at work. One day she told me that they (two police cars with a total of four cops) had been called out to an apartment where a guy had gone totally berserk and trashed everything; not a single stick of furniture was left intact. The alarm call had come from a neighbor who thought that maybe some teenagers or a burglar had broken in.

When the cops entered the thoroughly trashed house, they found a completely naked man standing in the middle of the bedroom, with blood on his hands and upper body. The police went into the room with their guns drawn and my friend asked him, “Sir, are you okay?” He replied, “I’m scared and I think I need an ambulance”, and then slumped down on a pile of rubble. Still conscious and non- threatening, he started to tell them what he had taken. My friend summarized it as, “A whole pharmacy of shit I have never even heard of”. To this I replied, “Like what? Coke and magic mushrooms?”, whereupon my friend said, “That, and a shitload of different antidepressants and something called 2C-I. None of my partners knew what that was, and the hospital didn’t quite know either.” “2C-I is a phenethylamine classified as a research chemical, kind of hard to get ahold of”, I blurted out without thinking. At the time I was trying to study Portuguese as a break from my anthropology studies, so there is

no way in hell that I had a really good reason to know about something the German police in the most experimenting and liberal town in Germany hadn't heard of. In an instant, her eyes went from sheer amazement to a hard cop stare of Clint Eastwood proportions. "How - do - you - know - that?" she asked slowly. I thought and came up with a quick white lie: "I did an essay on for an anthropology class, did my research on the Internet. There is a really good academic site called Erowid.org that has all kinds of information about nearly every imaginable." "Oh, I see, care to show me?" I did show her. And now, whenever my friend needs a neutral academic source on -related questions, she always uses Erowid. And that's the story of how at least one German cop uses Erowid for reference material. • by an anonymous visitor 11 by Agkdov Erowid Extracts No. 11 / November #006 1# How You Can Help Erowid rowid enjoys its reputation as a trusted source of information in large part because of its

contributors. But contribution can mean many things and there are numerous ways to help Erowid succeed. Through direct and indirect financial donations, spreading the word, and adding to the site's content, there are many ways to support your favorite digital psychoactive library. SuPPoRT TAKES mAnY foRmS A LittLE goEs A Long wAy Donate $$$ Visitor contributions pay the bills. Whether you donate $25 or $1,000, we need and appreciate your financial support. Monetary donations are used to: pay for staff time to research, create, edit, and correct content; manage volunteers; maintain the systems the site runs on; purchase necessary hardware and software, office supplies, and reference materials; and to allow Erowid to participate in important conferences. Give a Gift Membership Offering a gift membership to a friend or colleague is a great way to help Erowid. Members are part of an interdisciplinary, cross-generational community that attempts to engage the complex relationship

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organizations you support, like Erowid. by the Erowid Crew Submit imageS • DiStribute FlyerS • Contribute bookS • give giFt memberShipS E 1# Erowid Extracts No. 11 / November #006 1# Erowid Extracts No. 11 / November #006 Come Together Right Now Pooling resources with friends can be a great way to maximize your contribution. Donors or donor groups who request it are acknowledged on our Erowid Contributors page in the Donations section of the site. If you would like to see your group of friends or professional associates acknowledged for supporting Erowid, consider a combined donation. RAISE AWAREnESS sprEAd thE word Link to Erowid Erowid's online prominence depends in part on our ranking in major search engines. Members, visitors, and supporters can help improve our search engine ranking by linking to Erowid from their personal or professional websites. We especially appreciate links from sites outside of the typical Erowid demographic—the broader

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description than the word “ ”. Also express that Erowid strives to be a true library, not a promoter of any specific ideology. Explain that, as sensible as it may seem, Erowid is a little too controversial for most grants, particularly the government funding for which traditional libraries are typically eligible. Erowid is made possible largely by visitor donations, much like a public radio or television station. Further inform yourself about the philosophy behind Erowid by reading the About Erowid pages and related links to articles about the site. Erowid.org/general/about/ VoLunTEER incrEAsE And improvE thE sitE’s contEnt Sign up as a Volunteer Filling out the volunteer form is a good way to introduce yourself no matter what your interests and area of expertise. We have needs for many types of volunteers, for both complex and simple tasks. One easier way to volunteer, if you like to read experience reports and have time, is to become a Triager, to help us sort and prepare experience reports for

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savvy about psychoactives. If you don't do it, who will? • talk to your Family • volunteer • SenD CorreCtionS • Donate • link to erowiD Erowid Extracts No. 11 / November #006 1# 1# Erowid Extracts No. 11 / November #006 The Art of Photographing Psychoactives n September 2002, at the Mind States Jamaica conference, we first introduced the concept of "drug geeks"—those individuals who pride themselves on their specialized knowledge of psychoactives. One of the many sub- types of the geek is the "photo geek", a person who practices the art of photographing psychoactives. Following is a collection of photos taken by the photo geeks at Erowid. In 1996, when Earth and I first became interested in mycology, we would take long hikes during the mushroom season to see what fungus were growing in our area. Walking along with David Arora's Mushrooms Demystified in tow, we would carefully watch the forest floor, stopping by Fire Erowid often to leaf through the pages

of the guide to try to put a name to the strange-looking fungus we encountered. I began to call mushroom hunting "hiking with a purpose" since it added a new dimension to my experience of walking through the forest. Granted, hiking probably didn't need an additional purpose —the hills of California are a beautiful place. But for me, learning to identify mushrooms added a new educational dimension to these walks. A few years later, as I became more interested in photography, taking photos added a similar new purpose to many situations I found myself in, particularly those related to psychoactive plants and chemicals. These materials are ever present in our world. It's difficult to find a place where there isn't some type of psychoactive nearby, whether it's wild mushrooms, a bottle of anti-depressants, an herb garden, or a baggie of cannabis. Since much of our work revolves around these substances, photographing them is natural to me, but can definitely attract attention. The act of taking out

a camera to photograph psychoactive- related objects can spark interesting discussions with new acquaintances about how common psychoactives are, it can put people at ease about those conversations, and it can even send people scurrying to find things to be photographed. Photo Geekery 1# Erowid Extracts No. 11 / November #006 I museums, with their wealth of historical objects, can be a great place to take photos of items like these early 20th century packages of opium (above) and bottle of pills (right). 1# Erowid Extracts No. 11 / November #006 Erowid Extracts No. 11 / November #006 1# Psychoactive photo opportunities abound when traveling. We now plan our travel destinations and itineraries in large part around such opportunities. Seeking out interesting and unique photos can provide an organizing principle or purpose for how to decide where to go and what to do. Relevant historical sites, botanical gardens, and museums are abundant in many cities and countries.

These mushroom-related photos were taken in three different parts of the world; London, England (top); Huautla de Jiménez, Mexico (middle); and Negril, Jamaica (right). 16 Erowid Extracts No. 11 / November #006 Taking photos provides a reason to focus on the details of an object, and the photos themselves can solidify memories that may otherwise be fleeting. This Trichocereus pachanoi flower took four months to develop (June–October) and the flower lasted only six days once it opened. It was the first time the ten-year-old cactus had ever bloomed. 16 Erowid Extracts No. 11 / November #006 17 Erowid Extracts No. 11 / November #006 It doesn't take a rare flower to make a good photo. It's easy to forget that there is also beauty and interest in more ordinary objects. Even in everyday situations, psychoactives are often nearby: two pints of beer in a british pub (above), the dying flower of a common morning glory vine (right), a dried bud of cannabis (below), or whole and grated nutmeg (bottom

right). Erowid Extracts No. 11 / November #006

Photos can also provide functionality for both academics and professionals. Erowid receives many requests to use images of psychoactives: from teachers and professors for use in class, authors for use in books, the media for use in news stories, and professionals for use in presentations at conferences or industry meetings. We find that for those people who may be hesitant to trust new sources of information about psychoactives, quality images can provide an accessible entry point. They can convey a neutral tone about psychoactives less burdened with suspicion or doubt than other forms of data. But the best psychoactive images are a mix of information and aesthetics. And the process of documenting artifacts through images is one part photography, one part documentation, and one part meditation. Psychoactive photo geekery requires engaging with the world while also settling in to the slow

experience of really seeing the details that make up the informative, mysterious, and beautiful world of psychoactive plants and chemicals. 18 Erowid Extracts No. 11 / November #006 not only can photos provide visual interest for lectures and books, but they can present useful and specific data. Images can communicate size, color, shape, and other identifying features of an object more quickly and clearly than written descriptions. Examples include information about available street Ecstasy tablets (far left), the identifying markings of pharmaceutical alprazolam tablets (near left), the size of a one gram pile of mescaline (above), or the measurements of geltab (top). Erowid Extracts No. 11 / November #006 19 Science Hits Addictive Behaviors published a study conducted by researchers at the University of Michigan Substance Abuse Center which concluded that web-based surveys are as effective in gathering some kinds of data about substance abuse as mail-based surveys. 1 The

authors issued a survey on the "secondary consequences" of substance use to 7,000 undergraduate students, who were randomly-assigned to equal-sized groups (n = 3500). Each group was asked to respond either by mail or by a web-based survey. Statistical analysis of the results revealed "minimal differences between Web and mail survey modes in the reporting of secondary consequences associated with substance use." Web- based Psychoactive Surveys Get a Boost by Lux The findings of a small study examining the antidepressant effect of intravenous ketamine in 18 subjects with treatment- resistant depression surprised the mental health treatment community in early August 2006. The significance of the study, published in the Archives of General Psychiatry, centers on evidence of the unprecedented speed of symptom relief. Alleviation of major depression is typically measured in terms of weeks. In this study, relief of symptoms was experienced within hours. Subjects were given

one injection of ketamine HCl at 0.5 mg per kg of body weight (e.g. 35 mg for a 70 kg/154 lb person) and one injection of inactive placebo on two test days, one week apart. In the ketamine group, symptoms were significantly improved in half the subjects within two hours. By the next day, antidepressant effects were noted by 71 percent of subjects. Nearly one third of the subjects were still experiencing a significant reduction of symptoms seven days later. Compared to either anesthetic or recreational use of ketamine, the doses used In a previous study carried out by several of the same authors, the researchers found that a web-based survey can be an effective tool in gathering data "in an economically and racially diverse urban sample of secondary students". 2 This study found statistically-similar response patterns for over 1,500 secondary school students in responding to substance abuse surveys. These findings support our belief at Erowid that meaningful data on psychoactive substance use may be

gathered through web- based surveys, such as the series of eight surveys Erowid conducted between October 2005 and January 2006. While some self-selection bias is inevitable in any survey, data collected through web-based surveys appears to be as valid as that from traditional paper-based surveys. • References 1. McCabe SE, Couper MP, Cranford JA, et al. “Comparison of Web and Mail Surveys for Studying Secondary Consequences Associated with Substance Use: Evidence for Minimal Mode Effects”. Addict Behav. #006;#1(1):16#–8. 2. McCabe SE, Boyd CJ, Young A, et al. “Feasibility study for collecting alcohol and other use data among secondary school students: a web-based survey approach”. J Educ. #00#;##(#):#7#–8#. 3. Erowid F, Erowid E. “Erowid Visitors on : The Results of Eight -Related Surveys Conducted on Erowid Between Oct 2005 and Jan 2006”. Erowid Extracts. Jun #006;(10):#–8. in this study were quite modest. At these low doses, researchers

reported that some subjects experienced short-lived “adverse effects” including “perceptual disturbances, confusion, elevation in blood pressure, euphoria, dizziness, and increased libido”. These effects are categorized among the “emergent phenomena” that make ketamine problematic as an anesthetic. It is amusing to note that “euphoria” (a state of happiness or well-being) is considered an “adverse effect” in the treatment of depression. Euphoria is basically the antithesis of the depression being treated. Many Schedule I substances can be considered acute antidepressants in that they cause a mood lift, exactly the effect that is being sought by those who seek them out. Adverse effects that were more common after the inactive placebo than after ketamine included “gastrointestinal distress, increased thirst, headache, metallic taste, and constipation”. The goal of the research was “to determine whether a rapid antidepressant effect” could be achieved with ketamine. Common antidepressants such as

bupropion, SSRIs, and venlafaxine may take up to eight weeks to manifest such effects. The director of the National Institute of Mental Health remarked that it would be “terrific” if the quick antidepressant effect of ketamine were borne out in future studies. The results of the study were covered in articles by major media outlets such as The Washington Post and The Boston Globe. They were also published, along with a cited excerpt from a ketamine report from the Erowid Experience Vaults, in an article titled “Comfortably Numb” in the October 2006 issue of the scientific journal Nature. • References 1. Zarate CA, Jaskaran BS, Carlson PJ, et al. “A Randomized Trial of an N-methyl-d- aspartate Antagonist in Treatment-Resistant Major Depression”. Arch Gen Psych. #006;6#(8):8#6–6#. 2. Goldberg C. “Drug May Quickly Lift Depression, Study Says”. Boston Globe. Aug 8 #006. 3. Vedantam S. “Injection May Treat Depression Much Faster”. Washington Post. Aug 8 #006. 4. Check E.

“Depression: Comfortably Numb”. Nature. Oct 1# #006;###(711#):6#9–#1. Ketamine and Depression by The Erowid Crew #0 Erowid Extracts No. 11 / November #006 am a 21-year-old female who is very athletic and in excellent health. My previous experience with s includes psilocybin, , ketamine, MDA, tmd, and 5- MeO-tmd, all of which I am moderately to highly experienced with. Other s that I have experienced once to a few times are AMT, DPT, 5-MeO- DiPT, and mescaline. Over the past couple of years I have been for the most part avoiding tryptamines as I have grown tired of the body load and long tail- end effects. For the past five years I have been fascinated by the phenethylamines, but have been cautious about experimenting with them until more information became available. During this period, I have had the opportunity to try 2C-B on several occasions, but always passed it up as the time did not feel “right” for me. The following account is of my first experience with this

compound, which occurred a few days ago. The 2C-B has been carefully weighed on a scale accurate to 1 mg. My fiancé Karl and I are each planning on taking one capsule with 15 mg of 2C- B. This will be my first experience with this compound and Karl's third. The setting for the evening is a rented cabin on a body of water far from densely populated areas and far from our home. The scenery is gorgeous, unfortunately the cabin is a little run down, but we both feel very at peace here. Neither of us has eaten for approximately six hours and even though we do not feel hungry our stomachs are for the most part empty. Karl is on no medications and I am on only a low- estrogen birth control pill. [T+0:00] Feeling a little bit anxious, I wash down my capsule with some water. After swallowing the capsule my anxiety dissipates. There is no turning back now. [T+0:30] Karl and I are sitting in the cabin listening to some music and I am beginning to feel slightly mentally "weird", but it is so slight it could be a

placebo-like effect. [T+1:00] Karl and I have re-located to a spot outside where we have a nice view of the water. At this point I can tell that there is definitely a phenethylamine in me. Physically I feel very warm and relaxed with a slight buzzing in my body. Mentally I feel very clear- headed and happy with a small amount of euphoria. The sun is beginning to get low in the sky turning clouds shades of pink, red, and orange. [T+1:30] I am still feeling mentally and physically excellent, but I have become quite restless. I feel mentally sober except for the fact that details are standing out at me. I look down and analyze every single thread of my sweater. I am hearing undertones that I have never noticed in songs that I listen to often. [T+2:00] My restlessness has only increased, so Karl and I walk out to the pier and gaze down into the water. So far this has been pleasant but I begin to think if things don't pick up soon that I am going to be disappointed. It starts getting windy and cold so we start walking back to our cabin.

Mentally or visually there is still no indication that I have ingested anything (except for acute awareness to details), but as we are walking back I look at the cabin and see the roof raise up and fold into squares like a sheet of paper. Unbelievable! With and psilocybin I get visual distortions and patterning on things before I have any large-scale cinations. But with 2C- B, I got hardly any visual distortions or patterns to accompany large-scale cinations! Throughout the night I went from having cinations to feeling sober and vice versa many many times. [T+2:30] Back in the cabin we put on some slow-tempo electronic music, which sounds amazing. I am surprised, as music usually annoys me on most s. I also find my favorite seat for the night: on the bed in front of the window looking out at the water and the mountains. What is strange is that when we have the lights on nothing is out of place and I feel sober. But when we turn the lights off I start to have incredible visuals. There are some lights

across the water that start flashing and turning different colors. Karl tells me that they are actually white lights and that they are not flashing Breathtaking Physically I feel very warm and relaxed with a slight buzzing in my body. Mentally I feel very clear-headed and happy with a small amount of euphoria. With Some An Experience with 2C-B by Amethyst Deceiver Physical Discomfort I Erowid Extracts No. 11 / November #006 #1 (and I trust him, because his experience leveled out with the body buzz and the acute awareness to details. He had no visuals of any kind). I see the skyline start wavering and watch the mountains rise up higher and higher until the sky is almost not visible. The mountains then drop down to their original height, allowing me to view the clear night sky. The stars begin to spin and streak across the sky and begin to connect to each other with red lines to form a web of stars. These types of visuals progressed for the next 2.5 hours and did not get any more intense than

what I have just described. I also have access to memories and emotions in my past that I am not comfortable with and I can easily push them out of my mind. This experience is controllable, which is good, because at several times I am hit with certain thoughts or ideas that could have escalated into something terrible, but I could simply choose not to continue with them. Time has slowed down immensely. I can't believe it has only been a few hours as it feels like the whole night has gone by. [T+4:00] I am beginning to ignore my visuals as I get the urge to talk and think about people and matters in my life. I begin to dissect and analyze things, which end up confusing me. I then start taking components in my life and begin to put them together into one big whole. They start to make a lot more sense to me. The universe feels very small (or maybe it is me that feels so large?) and I feel like I can access anything. One thing about this experience that is beginning to get on my nerves is the lack of description and words I

can find for the thoughts I am having. I am making so many connections, but I can't put them into words, a problem I have never encountered with other s. Maybe the clear-headedness is causing this difficulty? Or maybe psilocybin, , and tmd are superior at helping one verbalize thoughts and connections? [T+5:00] The prominent visuals have ceased and I begin to realize how distorted the things around me now look. Karl seems disproportionate: one side of his face looks bigger, as does one of his arms. I look in a mirror and my pupils are doing the strangest thing. They constrict and then pulse and get a little bigger and then pulse and get a little bigger until they are dilated and then they constrict and the process starts over. I am now also very aware of how physically uncomfortable I am. My skin feels sticky and clammy. I am getting a headache and some slight nausea. I try to drink some 7-Up and eat some crackers, but I can barely taste or smell anything. I bump my elbow and feel nothing. I

can’t believe how numb my body and senses have suddenly become! The cartilage in my neck keeps cracking when I move my head, but the way it resonates makes it feel like the cracking is happening inside my head, which is a little disturbing. I also did not produce any phlegm or mucus, but I did have a small problem with my sinuses continually popping and creating a rushing air feeling and sound in my ears. These physical side effects were completely absent until now, and I find I can block them out by talking to Karl and being silly. I get the giggles pretty badly and say some pretty nonsensical things for a half hour or so. [T+6:00] I am feeling tired and lie down in the bed next to Karl. Holy shit it is the most uncomfortable thing I have ever been on. I have slept on floors that were ten times more comfortable than this bed. It also doesn’t help that the sheets are coarse and scratchy and the pillows are hard and lumpy. I still see some patterning, and things still look pretty distorted.

This is when my worst physical side effect began and it was impossible to ignore. I started to get some muscle spasms and tremors, which were annoying as hell and which also contributed to me having some anxiety. When I closed my eyes and tried to ignore them I found I could not keep my legs still. Looking back on this, I am not sure if the cause was physiological or psychological. It is possible that I may have been deficient in magnesium and potassium. But it is also possible that as I became more and more bored and uncomfortable with my surroundings, impatient to get to sleep, and frustrated with the uncomfortable bed, this triggered some moderate anxiety, which caused me to spazz out for a couple hours. [T+7:00] I am still being bothered with some physical discomfort but I am mostly ignoring it now except for some muscle spasms. At this point, my open-eye visuals consist only of rainbow splotches surrounding things (like water droplets with oil in them). I lie down and close

my eyes and decide to try to ride the rest of this out so I can fall asleep. This is my first opportunity to explore the CEVs. They are unlike any I have experienced with any other substance. They are three- dimensional patterns that are grey, black, dull yellow, dull red, dull blue, and dull green (almost like Lego colors and patterns). Some random images also pop into my mind of people I know morphed with insects and other strange creatures. [T+8:00] I am back to baseline but I am anxious and have some aftereffects that keep me awake for a few hours. [T+10:00] I finally fall asleep! I was only able to get 4–5 hours of sleep after the experience, as we had to be out of the cabin by a certain time the next morning. The day after, I was mentally and physically exhausted, but I also had a very strong positive afterglow, which tapered off over several days after the experience. Afterthoughts Some day I would like to try 18 mg and then maybe after that work my way up to 20 mg. Next time I will also make

sure that I have been getting plenty of potassium and magnesium so I can hopefully avoid having muscle spasms. Because of the restlessness 2C-B caused in me, I would say that it is not necessarily a substance to be taken in nature or solitude. I really found myself longing to be at home around friends and pets and in an environment I am more familiar with. I also believe it could be a fun thing to experience at a club or concert (at a low to medium dose). 2C-B is one of the most unique substances I have ever taken and it definitely had a personality of its own. Even though I didn't really have any deep insights, it was still enjoyable (except for the discomfort at the end). At a medium dose it could be a good introductory . However, I would also caution those who really rely on their mind clearing up as a sign of coming down from a substance; because with 2C- B, one's mind can be relatively clear the entire time, which can lead to anxiety near the end from wondering when one is going to finally come

down from the trip. • Erowid.org/exp/exp.php?ID=55635 This experience is controllable, which is good, because at several times I am hit with certain thoughts or ideas that could have escalated into something terrible,… ## Erowid Extracts No. 11 / November #006 Erowid Presents Erowid was invited to present at this year's North American Congress of Clinical Toxicology (NACCT) meeting, held October 4– 9 in San Francisco. Organized by the American Academy of Clinical Toxicology and co-sponsored by the American Association of Poison Control Centers, the event brought together physicians, nurses, pharmacists, and scientists from around the world to share knowledge on a variety of issues relevant to clinical toxicology. What Is Clinical Toxicology? Toxicology is concerned with the poisonous effects of chemicals and metals on organisms. In 2000, we attended a conference of the California Association of Toxicologists—a gathering heavily oriented towards law

enforcement efforts such as testing and the investigation of - related deaths. Presenters included a DEA field agent and a California narcotics officer; a strident anti-drug message pervaded the entire conference. It wasn't until the recent NACCT conference that we realized there When dealing with psychoactive , the relationship between forensic toxicologists and human subjects is often adversarial, while the relationship between clinical toxicologists and their subjects is one of caregiver to patient. Clinical toxicologists work to solve medical problems, regardless of whether the toxicological incident involves criminal activity, and their first priority is the health of their patients. Who Attended the Conference? Most conference attendees were physicians or pharmacists who had specialized in toxicology and were trained in the diagnosis and treatment of toxicological health issues, including those related to psychoactive . Medical schools cover clinical toxicology briefly, but doctors interested

in the field typically do a two-year toxicology fellowship following residency (see “Medical Toxicologists” sidebar). The number of toxicology fellows in the United States is very small, with one physician at the conference half-joking that nearly all of the “tox fellows” in the country were standing within a hundred yards.

How Was Erowid Involved? Fire, Earth, and Sylvia presented at a pre- meeting symposium titled “Substance Abuse and Addiction: Getting High, Getting Hooked and Getting Help”. A crowd of 325 toxicologists gathered for lectures on topics ranging from opiate addiction treatment and prevention, to the roles played and methods used by toxicology labs related to of abuse, immunotherapies for addiction treatment, and high-dose cannabis use in the Netherlands. Erowid presented a talk titled “The Evolution of Erowid: Straddling a Very Tall Fence”. What “Tall Fence”? Conference organizers asked us to present a brief history of Erowid and give an overview of our work. We

chose to focus on the theme of the perceived split between "sides" of politics and how we envision our work as an attempt to build bridges between different communities. We had been warned that we might face criticism at this conference for "promoting illegal use", so part of our goal was to address and debunk that misconception. During our presentation, we covered some of the criticisms that have been leveled against us in medical journals, the lack of evidence that our work increases illicit use, and the small amount of evidence that suggests it may increase the care with which people use psychoactives. No Fence at the NACCT 2006 At one point during our presentation we wondered aloud how much time we needed to spend introducing the content of Erowid and asked for a show of hands from those who use the site. We were surprised when more than 90% of the people in the room raised their hands, everyone looked around, and a small laugh rippled through the audience. We were

pleased to learn how valuable Erowid is to clinical toxicologists. During the question and answer period following our talk, a series of people stepped up to the microphones, gave their names and credentials, and complimented us on our work. The expected confrontation did not occur and, in fact, we were blown away by the positive response we received. Both Dr. Edward Boyer and Dr. Paul Wax, who had authored papers critical of Erowid in peer reviewed journals, stepped up to publicly state that they had changed their opinions about Erowid. Noteworthy Conversations The day was full of interesting conversations and stories. One woman approached to say she had previously felt uncomfortable about supporting Erowid, but after seeing how many others used the website, and hearing all the positive comments from her peers, she wanted to become a member. Another physician told us that the hospital she worked at had recently at the North American Congress of Clinical

Toxicology “Although a few years ago, I might have definitively stated that Erowid leads solely to increased abuse, I do not now believe that to be the case. If it did, we should have seen a sinicuichi outbreak, or something similar. I think that most of the entheogens are not appealing to many, and those who wish to explore consciousness are a small proportion of the population. Ultimately, the public health threat simply isn’t there, but the educational function is.” — Edward Boyer, MD, PhD by Sylvia Thyssen and Earth Erowid are important practical differences between forensic toxicologists— whose primary work includes testing for employment, law enforcement, and investigatory purposes— and clinical or medical toxicologists—the doctors, nurses, and pharmacists who work with health-related toxicology issues. ## Erowid Extracts No. 11 / November #006 A medical toxicologist is a physician trained in the diagnosis, treatment, and prevention of “poisonings”. Medical

toxicology encompasses both intentional and unintentional overdoses; recreational mishaps; adverse medication interactions; environmental exposures, such as marine envenomations, snake bites, and plant poisonings; industrial workplace and household chemical exposures; and potential bioterrorist agents. A medical toxicologist may serve as a medical director for a poison control center; consult for other physicians in hospitals or clinics; see patients in his/ her own clinic; or serve as a resource for academic medical centers, companies, or other organizations. To become a medical toxicologist, one must first complete medical school (MD or DO) and residency, then be accepted to and complete a two-year fellowship, and finally pass an intense certification exam. Typically, toxicology fellows specialize first in emergency medicine, pediatrics, or preventive medicine. There are approximately thirty medical toxicology training programs in the United States, each with only one to three

positions per two-year program. Fellowships are affiliated with a poison control center and typically an academic medical center. All of these programs cover a mixture of patient care, academics, research, and administrative duties, yet they are unique in what topics and skills they emphasize. Each day spent as a toxicology fellow is unique. When I'm on call, physicians contact me any time (day or night) to ask questions or to get recommendations about how to care for patients with toxicologic problems. Since I am a fellow in training, other medical toxicologists are available for me to consult with. Some days I see patients who have asked to be evaluated for possible toxin exposure. A couple of days each week, our division of toxicology meets to discuss interesting cases from the past week, including pathophysiology, biochemistry, toxicokinetics, controversies in treatment, and relevant academic journal articles. I also prepare lectures and academic papers and work as an emergency physician in

the emergency department at my hospital. I chose to become a medical toxicologist because I appreciate the complexity of the interactions of , medications, and chemicals, in combination and alone, with receptors, neurotransmitters, and organ systems of the human body. I enjoy the intellectual challenge of recognizing patient presentations for toxicologic problems, making a diagnosis and treatment plan for patients, and understanding the body of knowledge that comes with being an expert. A classic case might look something like this: A 17-year-old student takes a lot of pills in an attempt to get high. His friends become worried by his behavior and bring him to an emergency department. His heart rate is high, his pupils are large, he mumbles character- istically when trying to talk, he picks at the air in front of him with his hands, and when asked “what color is this string?” he says purple, even though there is no string. Every medical toxicologist should easily recognize the most likely diagnosis

within a few moments of walking into the room: He's suffering an- ticholinergic syndrome (he probably took too much Benadryl [diphenhydramine] or another similar) and the treatment is benzodiazepines or physostigmine. More difficult and interesting cases may involve several or chemicals interfering with the body's systems or an atypical reaction to a or combination of . Toxicology fellows are highly trained in medical issues related to psychoactive use, from an understanding of how the substances cause their effects, to the neurotransmitters involved in the brain, to the effects on other parts of the body, to the adverse reactions associated with the substances, and the art and science of treating individuals in need of our help. Although psychoactive substances are only one part of medical toxicology, we are the experts called in to help treat people who end up in the hospital after using a psychoactive . • Medical Toxicologists begun filtering web access on their network and Erowid was on the

list of sites blocked by the software. When she asked to have it unblocked, she was told Erowid is “a site” and that she would have to get written permission from the hospital’s Institutional Review Board to bypass the filter. We were saddened, but not surprised, that the hospital had a policy of blocking sites like Erowid regardless of the fact that their own toxicology specialists use these sites in their professional work. Several people who work at poison control centers around the United States commented on how helpful Erowid has been for them. One of the roles a clinical toxicologist may have at a poison control center is to field calls, emails, and instant messages from other physicians who have questions about toxicology issues, such as interactions or overdoses. These toxicologists use all of the tools they have available to them, including proprietary digital databases and the internet. While it is natural that information about psychoactive substances on Erowid could be useful for toxicologists, this

is the first we've specifically heard of experts on call using Erowid to answer questions for emergency rooms and poison control centers. Thanks to all of the volunteers and members who help make Erowid possible. Your efforts and support have helped provide doctors with information they use to improve people's health and lives. • Paracelsus (1493–1541) is considered the father or founder of modern toxicology. He is credited with the widely-repeated quotation "All things are poison and nothing is without poison; only the dose makes something not a poison." (Often summarized as "The dose makes the poison.") by an Anonymous Tox Fellow ## ## Erowid Extracts No. 11 / November #006 Visionary Art Gorgonol (Digital) by Serge Tretiakov — elphenden.com The Distillation (Acrylic on Canvas) by actual contact — actualcontact.com Blind Love (Collage) by Dodie Summary General Content Pages 1#,#60 Archived Site Pages #,786 Experience Reports 11,##1

References 6,##6 Ask Erowid ##8 The Erowid Review 1## Content Images #,#61 Visionary Art 1,790 Total #1,077 Erowid Files on Server ###,779 Erowid Disk Footprint 19.3 GB Current Members 1,#1# Daily Visitors #1,#0# The Distillation includes updates, statistics, and information that we hope will offer insight into the ongoing site additions, traffic, and projects currently underway at Erowid. General Content General Content Pages 1#,#60 Number of substance vaults #96 Most popular substance vaults (with change) (?); Mushrooms(?); Cannabis(?); (?); (?); Salvia divinorum(?); Methamphetamine(?); tmd(?); Morning Glory(?); dex(?); Opiates(?); Ketamine(?); Heroin(?); Mescaline(?); 2C- B(?); Peyote(?); Nitrous Oxide(?); Oxycodone(?); Ayahuasca(?); Amanitas(?); Datura(?); Amphetamine(?); #-MeO- tmd(?); Hydrocodone (?); GHB(?). Most accessed documents Testing Basics; Mushroom Effects; Effects; Cannabis Effects; Effects; Effects; Salvia Effects; Caffeine Content of

Beverages; Mushroom Basics; Basics. ## Erowid Extracts No. 11 / November #006 War and Peace (Acrylic on Canvas) by Dadara — dadara.com Experience Reports Published reports 11,##1 Published in last 6 mo. 1,097 Fully triaged reports 1#,67# Partially triaged reports #,10# Un-triaged reports 1#,0#0 Viewed each day 69,#0# Submitted each day ## Substances included #88 Active triagers ## Christ On Mass (Oil and Acrylic on Board) by Simon Kelly Published art pieces 1,78# New pieces in last 6 mo. 91 Number of artists #0# New artists in last 6 mo. ## Viewed per day #,8#6 Curated by Christopher Barnaby Desert Talks In August, Erowid participated in the Burning Man festival held in Black Rock Desert, Nevada. As in past years, the Erowid dome was a popular site for lively discussion related to psychoactives and the states of mind they engender. It was also home to a small lecture series called Speakers Corner organized by Mark Pesce. Speakers included Erik Davis,

Fire & Earth Erowid, George Greer & Requa Tolbert, Jon Hanna, Gregory P., Dale & Laura Pendell, Mark Pesce, Sylvia Thyssen, and several others. Glass Molecules In July 2006, we began offering hand- blown glass molecules as Erowid membership gifts at the $125 level and higher. We have been working with visionary artist Ed Steckley to design and create these unique pieces of art. Available molecules include , tmd, psilocin, and serotonin and we hope to add additional chemicals in the future. The molecules range in size from approximately 3 to 5.75 inches. Atom are made from different color glass to indicate what element they represent. If you are a chemistry geek, check these out; or consider one as a Solstmas gift for a chem geek near you. #6 Erowid Extracts No. 11 / November #006 Image Vaults Published images 6,### New in last 6 mo. 1#7 Image vaults ### Submitted each day 7 Viewed per day 60,60# Awaiting processing 6,010 The Erowid Review Eighteen months ago, we

unveiled The Erowid Review, a section of the site dedicated to reviewing books on Erowid-related topics. After building a foundation of monthly reviews, Scott O. Moore, the founding editor, passed on leadership to author Erik Davis. Erik is committed to continuing the Review's coverage of new volumes through the collection of existing reviews and the solicitation of new ones. Erik also looks forward to working on the Psychoactive Canon: an annotated (and necessarily opinionated) list of the defining and most recommended books in the field. Contact review@erowid.org if you are interested in being a reviewer. A recent highlight has been a review of Pharmako/Gnosis, Dale Pendell's latest opus. "This, the final and long-awaited work of Pendell's trilogy, focuses on the intersection between the pharmakon and knowledge, what Pendell calls 'poison knowledge'. To do the task justice, Pendell must take on the literature of pharmacology and neuroscience, of ethnobotany and anthropology,

of mythology and even political economics– not to mention the vaults of Erowid, that damned mob of scribbling trippers. It took chutzpah and quite a bit of struggle to even attempt this work. To take on a poetry of poisons, you'd have to be lucky and crafty, a fool to try and some kind of Odysseus to succeed." — Faustroll Erowid.org/library/review/review.php?p=205 The Erowid Review Published reviews 1## Published in last 6 mo. 1# Viewed each day 97# Erythroxylon novogranatense, Photo by Erowid Cannabis in bowl, Photo by Erowid Modafinil tablet, Photo by HG23 #7 Erowid Extracts No. 11 / November #006 Erowid Traffic Statistics DAILY Visitors #1,#0# File Hits #,##8,708 Transfer 22.48 GB Page Hits #16,09# BY MONTH Avg Daily File Hits Avg Daily Page Hits Avg Daily Visitors Oct 2006 #,##8,708 #16,09# #1,#0# Sep 2006 #,0#6,#8# #86,#06 #6,#87 Aug 2006 #,987,9## #77,0## ##,7## Jul 2006 #,80#,719 #96,#70 ##,##0 Jun 2006 #,6#8,09# #9#,8## ##,6## May 2006 #,91#,19#

#19,9## #9,##9 BY YEAR 2006 #,97#,918 #10,#0# #8,### 2005 #,###,#0# #0#,#67 #1,#1# 2004 1,799,69# #0#,##8 #1,##1 2003 1,##1,81# ##9,##0 ##,997 2002 1,#06,8## #8#,##1 ##,0## 2001 798,#00 #07,##7 17,#00 2000 #6#,000 1#6,000 1#,000 Membership Current Members 1,#1# Recently Expired Members (0-6 mo.) #9# Older Expired Members (6+ mo.) #,196 Members in U.S. 9#8 (7#%) Members in other countries ### (#7%) Countries with members ## Top membership countries USA (9#8); UK (69); Canada (7#); Australia (#7); Germany (##); Sweden (1#); Switzerland (1#); Norway (13); Netherlands (13); France (12); Finland (9); Spain (9); Italy (7); New Zealand (6); Ireland (4); Israel (4); South Africa (4); Denmark (4); Mexico (4) EcstasyData Summary DAILY Daily Visitors #,6#6 Daily Page Hits #7,69# Tablets Tested ## Daily File Hits ###,919 BY YEAR Tablets Tested Testing Results (1999–2006) 2006 ## Total Tablets Tested 1,#89 2005 1## Only (#8%) #7# 2004 1#1 + something

(17%) ### 2003 1#8 No (##%) 666 2002 #01 – Nothing 9# 2001 ### – Unidentified 7# New Crew Member In mid- September 2006, we had the pleasure to hire a new part- time person into the Erowid crew. Lux has been passionately interested in states of consciousness for many years, and has an academic background in psychology, religious studies, philosophy, and literary theory. Lux's talents in writing, research, editing, and careful communication are well suited to Erowid's editorial approach and we are excited to have him working with us. Lux writes: "I strongly believe in Erowid's mission of providing accurate data to the public. It is my conviction that in the long run, humanity's interests are best served by making decisions based on careful reflection and accurate understanding." Having another person on board also presents a classic small-organization conundrum. While it strains Erowid's limited resources in the short term, the redistribution of tasks and responsibilities will

hopefully permit us to better handle the flood of data, projects, and communications we encounter. #7
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“If merely ‘feeling good’ could decide, drunkenness would be the supremely valid human experience.” — William James (1842–1910) “Creative people who can’t help but explore other mental territories are at greater risk, just as someone who climbs a mountain is more at risk than someone who just walks along a village lane.” — R.D. Laing (1927– 1989) “We are continually faced with a series of great opportunities brilliantly disguised as insoluble problems.” — John W. Gardner (b. 1912) “Conquering any difficulty always gives one a secret joy, for it means pushing back a boundary-line and adding to one’s liberty.” — Henri-Frédéric Amiel (1821– 1881) “People everywhere confuse what they read in newspapers with news.” — A.J. Liebling (1904–1963) “Books are the compasses and telescopes and sextants and charts which other men have prepared to help us navigate the dangerous seas of human life.” — Jesse Lee Bennett (1885–

1931) “Liberty cannot be preserved without a general knowledge among the people.” — John Adams(1735– 1826) “There is science, logic, reason; there is thought verified by experience. And then there is California.” — Edward Abbey (1927–1989) “We can no more invalidate an experience because its physiology is known than we can invalidate physiology because its biochemistry has been identified.” — The Psychology of Religion (1985) “Our greatest problems result from the difference between how we think and how nature works.” — Gregory Bateson (1904–1980) “Life is not a problem to be solved; it is a mystery to be lived.” — Søren Kierkegaard (1813–1855) “Science is organized knowledge. Wisdom is organized life.” — Immanuel Kant (1724–1804)