

Testimony of Siobhan Reynolds
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July 12, 2007
House Judiciary Committee on DEA Oversight
The DEA's Regulation of Medicine

Mr. Chairman and members of the committee. Thank you for asking me to speak on the current situation facing patients in chronic pain. We come to you seeking your protection from the Drug Enforcement Administration, an agency out-of-control, an agency that has demonstrated no respect for the rights of ill Americans, nor for the rule of law itself.

My name is Siobhan Reynolds and I head the Pain Relief Network. My late husband Sean Greenwood and I founded PRN in order to oppose and speak out against the DEA's crackdown on pain treating physicians, a crackdown that kicked into high gear immediately following the tragic events of September 11th 2001.

While most Americans began to pull themselves together and readjust their thinking to a dangerous new world, we in the pain community, patients, their families, doctors and their families found ourselves set upon by the full force of the police powers of the Federal government, led in the main, by the DEA under administrator Karen Tandy. It is fair to say that we have, indeed, been the victims of a reign of terror, instigated and implemented by agents of our own government.

We have, until now, been unable to persuade our elected officials to listen to our grievance and have, as a result, suffered a constant and unrelenting onslaught; an onslaught, which has claimed many innocent and valuable, lives. Additionally, many of our nation's finest and most compassionate physicians have been sentenced to prison terms exceeding three decades. Yet all of this is merely the tip of the iceberg, for the most scandalous part of this shocking tale is that the DEA's actions have served to warn the rest of the medical community not to treat serious pain in all its forms.

Perhaps you think that if you, or a member of your family were to have a car accident, suffer ongoing pain after a surgery, or contract cancer, that doctors would be able to tell that you or your loved one really needed the medicine and that the medicine would be made available. The terrible truth is that you would be wrong. All the available evidence shows us that we are, in fact, living in an ongoing and worsening medical crisis as concerns the undertreatment of pain.

When Ms. Tandy brandished that bag of pills at a press conference, in spite of the fact she had been warned of the dire consequences of her actions, she indeed sealed the fate of our most vulnerable citizens. Since then, Americans in pain have been subject to the excesses of a law enforcement free-for-all. Moreover, profiteering and exploitation are rampant; patients are being forced to try new and dangerous drugs rather than being allowed to choose the safe and effective opioid medicine, the medicines in use for thousands of years to treat pain.

Patients are rarely told that they will not find effective care, but are instead shuttled from clinic to clinic, in a kind of death march, their Medicare or insurance policy bled dry of whatever benefits are available to the medical system, surgeons and physical therapists, psychologists and “addictionologists,” along the way

In order for you to get the full picture of what has occurred and is occurring right now, I will offer you a brief synopsis of the history of pain care, or rather the lack thereof, under drug prohibition. For while the Harrison Narcotics Act and The Controlled Substances Act were promulgated with the stated, and I believe sincere intention of exempting medical pain treatment from Federal criminalization, our medical culture was perverted by enforcement actions taken against physicians and has been deeply and perhaps permanently damaged as a result.

After a major crackdown in the 1920’s and 30’s which put thousands of physicians in prison, the treatment of pain became something physicians simply didn’t do; hospital corridors and emergency rooms rang out, and do to this day, with the anguished screams of people in pain whose plaintive wails fall on the deafened ears and hardened hearts of medical professionals.

Back in the late 1990’s when the FDA and DEA collaborated with academic pain medicine to encourage American doctors to go ahead and treat pain, assuring them that the coast was clear, the climate began to change for the better and a few patients began to get care. Together, the DEA and the leadership of academic medicine codified an agreement called the FAQ, a document we have submitted as an exhibit to the committee. This document was introduced with much fanfare, to give physicians and DEA agents alike guidance about what does and does not constitute the treatment of pain under the new medical approach which allowed for high doses.

While the DEA reneged on this agreement once it became clear that physicians might rely on it in Federal courtrooms, pulling it off government and collaborating websites, the academic doctors were unable to recognize the agencies’ apparent bad faith and could not change course to defend their patients against the government. Instead, they advocated the implementation of harsher and more onerous patient control and patient selection modalities that further enmeshed the practice of pain medicine with law enforcement imperatives.

Doctors who do continue to treat serious pain-and they are now very rare indeed-have been forced to collaborate with gun toting agents against the interests of their patient’s privacy, health and dignity. Across America, a few tiny clinics dot our cities, the doctors quake in fear, and the patients in pain are being treated as sub-human, people without human or civil rights, always a hair’s breadth away from losing care they need to work and take care of their families. With video cameras installed, and patients forced to sign contracts wherein they supposedly give their “consent” to doctors to withdraw treatment should the doctor find himself spooked-no matter the consequences to the patient’s health-we are living in a country I do not recognize as my own.

We, the citizens of the United States of America, are suffering under the police state of medicine. And as all of this is happening within the doctor/patient relationship, under cover of the US War On Prescription Drug Abuse, the brutalization of our ill population is unseen, their weakened voices barely audible. However, their degradation is deeply felt, indeed, many patients in pain have not survived. We are here from PRN, in the memory of those who have died, and most urgently on behalf of those who cling to life to ask, most sincerely, for your help in stopping this as soon as possible.

My husband, Sean and our entire family along with him, suffered under the medical culture of non-treatment for over ten years before we found Dr. William Hurwitz. Sean suffered with an extremely painful congenital connective tissue disorder that affected all of his joints. Our son Ronan inherited the condition. It was under Dr. Hurwitz's care that Sean, for the first time, was able to get his pain under actual control, so that he could function in anything like a normal capacity within our family. It wasn't long, however until Dr. Hurwitz's office was raided and all the records seized- the prosecutors claiming that the entire practice was, and I quote, "polluted" and that they would "root these doctors out like the Taliban."

General searches of private patient records began to take place all over the country, physician's assets were seized prior to trial, and physician after physician went down on drug trafficking convictions. It wasn't much later that the DEA actually published in the Federal Register that they were planning to investigate doctors who treated pain, merely to assure themselves that no crime was being committed. As a result, Sean and only God knows how many other patients nationwide were unable to get any other doctor to treat them with the dosages that worked for them. People needing orthopedic surgery, veterans, or children dying of cancer were and are increasingly shut out of care by doctors who were being conditioned, terrorized in fact, out of treating pain responsibly.

As you are undoubtedly aware, the Controlled Substances Act was not intended to usurp the regulation of medicine in the states, but was, instead, supposed to be used to address those rare instances where a doctor used his prescription writing privileges to deal drugs as opposed to treat pain. Unfortunately, as government lawyers admitted early on in the Oregon vs. Ashcroft case, Department of Justice prosecutors have in fact been prosecuting doctors based on their subjective views as to how medicine ought to be practiced, and appear to be quite un-conflicted about it. When District Court Judge Robert Jones asked the government to support their contention that they had the authority to regulate the practice of medicine in the state of Oregon using the criminal code, they offered the following:

“Although the Committee is concerned about the [in] appropriateness of federal prosecutors determining the appropriate method of the practice of medicine, it is necessary to recognize that for the last 50 years this is precisely what has happened, through criminal prosecution of physicians whose methods of prescribing narcotic drugs have not conformed to the opinions of federal prosecutors of what constitutes appropriate methods of professional practice. Defendants’ Memorandum, pp. 16-17....” Oregon v. Ashcroft, 192 F. Supp.2d 1077 (2002)

Here, the Department of Justice admits that they enforce the law capriciously and without regard for the limits dictated by the requirements of Federalism. I ask you, are these attorneys unaware that our country was designed with a Federalist structure in order to prevent precisely the kind of tyranny that we currently endure?

Under Attorney General Ashcroft and Attorney General Gonzales the entire Federal police apparatus got into the act, even going so far as to tout the number of Federal agencies involved in one case, as if this fact alone were validation of the heinousness of the “crime” that had been “committed”. So that even while the Justice Department lawyers were being told by Federal courts all the way up to the United States Supreme Court that they did not possess the authority to regulate medical practice using the criminal code, they continued to pursue this policy of prosecuting doctors using so-called expert medical testimony to define the crime.

The situation got so bad, that the National Association of Attorney’s General issued two letters asking the DEA to stop exacerbating the situation. But we never saw any official body hold a news conference to denounce what we all knew was going on. Academic medicine remained silent, as did the FDA and the addiction bureaucracies, the “medical ethicists” even the “pain foundations” mere fronts for pharmaceutical companies, refused to speak out; too many Federal dollars at stake, presumably.

It is a shocking but telling fact that our government does not keep track of the number of people who commit suicide because they can no longer endure their pain; this despite the fact that we know that prior to the Bush Administration crackdown, there were an estimated 10 million Americans struggling to live in out-of-control pain. When we at PRN held press conferences and announced our outrageous predicament, introducing the press to patients and doctors, patients who had been labeled as “addicts” and refused care, doctors who had since been exonerated and who had joined together to speak out against this madness, the press remained silent. People in pain, and there are so very many of them, have become a silenced, desperate, and terrified minority.

This has all happened “under the radar” because the medical profession and the media have heretofore viewed SWAT raids on medical clinics as examples of law enforcement doing its job, rather than as evidence that their own government was systematically abusing a highly vulnerable population of patients. Nothing we said could cause the scales to fall from their eyes. And that appears to be due at least in part to the fact that as

defined by the Controlled Substances Act, a pain patient crying out in need of more relief is virtually indistinguishable from a drug addict.

The term "addict" means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction. 21 USCS Section 802 (1996)

And so, as Justice Louis Brandeis so eloquently remarked on the inadvisability of witch-hunting, "Men feared witches and burnt women."

America was, and is, happily hunting addicts, but for the most part, we are actually hunting patients in pain.

My husband Sean died in a hotel room in Arkansas last August 23, 2006. He appears to have succumbed to a cerebral hemorrhage that resulted from out-of-control blood pressure due to the years he suffered in out-of-control pain. The paramedics who came to our room the evening before, refused to assure me that his pain would be treated were he taken to the hospital. They even told me that his dilated and fixed pupils, which indicated that he was slipping into a coma, were symptoms of drug addiction and that they planned to "detox" him at the hospital. As we had some pain medicine on hand, due to the heroism of Dr. Robert Kale, his final doctor, to whom we had driven a thousand miles in the August heat, Sean was at least comfortable. I decided, therefore, to let him die with us, and sent the medical professionals on their way.

As he slipped ever further into a coma, he asked me to help him and I told him I was. But the truth is, I could not help him because there was no one left out there who would help. After struggling for years to save him, spending all my family's resources to do it, I realized that I had come up short. My 15-year-old son Ronan, who sits behind me today, lost his father because his government had intimidated his father's doctors out of taking care of him. What do I tell him has come of his country?

Gentlemen, we have no one to turn to but you. The community I represent desperately needs your intervention. People in pain and their families are being run to earth. I am happy to answer any questions you might have about this terrible crisis and urge you to return the regulation of medicine back to the 50 states by amending the Controlled Substances Act to reaffirm the structural protections afforded us by our Founding Fathers.

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