The Entheogen Law Reporter

Issue No. 2 ISSN 1074-8040 Spring 1994

Criminalizing Nature & Knowledge: Toads, Cacti, Mushrooms, and the Domain of the Human Brain

WAR IS PEACE

On January 4, 1994, law enforcement agents in California arrested a man and his wife after finding inside their home a pair of *Bufo alvarius* toads, several San Pedro cacti (*Trichocereus pachanoi*), and a single mushroom suspected to naturally contain psilocybin. The officers also found several vials believed to contain dried venom extracted from the parotoid glands of the toads. Criminal charges against the wife were subsequently dropped, but the man currently faces felony charges of illegal possession of controlled substances under California's Controlled Substances Act. The case is still in its early phase, so at this point little can be said about the details of the prosecution or about the man's likely defense. However, the government's general theory, that California's anti-drug laws are violated by a person possessing these natural plants, fungi and toads, constructs a picture of our world stranger than even Salvador Dali could have imagined.

It is true that under California law bufotenine, mescaline, and psilocybin, are controlled substances and their possession is illegal. The problem with the prosecution discussed above, is that the officers failed to find any of these substances (except possibly bufotenine). Instead, the officers merely found natural objects that may themselves naturally produce controlled substances internally. While the vials containing the suspected toad extract come the closest to a controlled substance in its "pure" drug form, the biochemical composition of *Bufo alvarius* venom is open to some debate. The venom is believed to contain only trace amounts of bufotenine. In fact, the actual amount of bufotenine in the venom is possibly, if not likely, so scant that a single extraction from the toad's parotoid glands might not contain an amount of bufotenine "useable" as a controlled substance, as required for a possession conviction under California law. Most scientists agree that the primary active ingredient in *B. alvarius* venom is 5-methoxy-DMT, not bufotenine. The substance 5-MeO-DMT is not a scheduled substance under Federal or California law. (DMT is, of course, a controlled substance in every jurisdiction, but its 5-methoxy derivative is entirely unscheduled.) In other words, it is possible that laboratory analysis of the substance contained in the seized vials may prove that the extract is entirely legal. We can only wait and see.

But, does one commit a crime by merely possessing plants or animals that may themselves naturally contain controlled substances? A reading of the California and Federal drug laws indicates that when the government has intended to outlaw the possession of specific plants, it has expressly done so. For example, the government has not only outlawed possession of the substances: cocaine, THC, opium, and ibogaine, but also possession of their natural plant sources: Coca leaves, all plants of the genus *Cannabis*, Opium poppies (*Papaver somniferum*), and

IN THIS ISSUE

Tabernanthe iboga. Most on point is the government's handling of the substance mescaline. The government (both Federal and California) not only expressly schedules mescaline, but it separately and by name also schedules its well known plant source *peyote* (*Lophophora williamsii*.)

Unlike *peyote* (or the other plants noted above) San Pedro cacti is not scheduled under California or Federal law. Presumably, if the government had intended to make San Pedro or any other mescaline producing cacti illegal, it would have expressly done so rather than only naming *peyote*. If the technique of enumerating controlled substances is to mean anything, it must fundamentally mean that those substances that are not enumerated are not controlled. Consequently, one is led to the reasonable conclusion that San Pedro cacti are not controlled substances, and that mere possession of San Pedro is not a crime. This conclusion seems to be confirmed by the fact that it is sold commercially in such common outlets as the K-mart garden center, and yet no prosecution has resulted.

A similar point can be made with respect to the substance psilocybin, possession of which is outlawed under Federal and California law. As with San Pedro, however, neither the California nor the Federal schedules explicitly outlaw possession of the natural vegetable plant source (or in this case, fungi) which may embody the substance. The Federal law does outlaw "manufacturing" controlled substances such as psilocybin or mescaline, by "extracting" them "from substances of natural origin." However, there does not appear to be any evidence of "manufacturing" psilocybin or mescaline in this case. It appears that the closest the State of California comes to outlawing a mushroom that naturally contains psilocybin is in the State's law against the "cultivation" of mycelium that produces psilocybin. (See Health & Safety Code sections 11390 through 11392.) Those sections, however, appear by their own language to be limited to cultivation and do not address the mere possession of wild mushrooms found naturally growing and which may contain psilocybin.

Finally, it is axiomatic that all laws must be reasonably construed. It would, therefore, be patently absurd for the government to try and make its case by arguing that the cacti, toads and mushroom seized in this case are illegal "containers" or "mixtures" containing the scheduled drugs. Such an argument should fail because it stretches to ludicrous proportions the definition of "container" or "mixture." The average person would not naturally think of a plant or mushroom as a "container" or "mixture." In fact, such unnatural reductionist definitions would make possession of our own brains illegal for the simple reason that they endogenously contain DMT.

> *"Crimestop means the faculty of stopping short, as though by instinct, at the threshold of any dangerous thought. It includes the power of not grasping analogies, of failing to perceive logical errors, of misunderstanding the simplest arguments if they are inimical to Ingsoc, and being bored and repelled by any train of thought which is capable of leading in a heretical direction. Crimestop, in short, means protective stupidity."*
>
> *—1984, George Orwell*

IGNORANCE IS STRENGTH

The absurdity of California's attempt to prosecute a person for possessing cacti, toads and a mushroom is underscored when one considers what the government would have to prove in order to sustain a conviction for such a "crime." It is a fundamental characteristic of our criminal jurisprudence to define almost every crime in terms of a particular act and a particular mental state. In order to be guilty of a particular crime you must commit the physical act simultaneously with having the requisite mental state or intent. (For example, the crime of forgery consists of the act of making or altering of a false writing, combined with the mental state of intending to defraud.)

This act/intent structure is carried into the laws criminalizing the possession of controlled substances. To convict a person of illegal possession the government must not only prove that the person physically or constructively possessed the scheduled substance (the act component of the crime), but it must also prove, by direct or circumstantial evidence, that the person had knowledge of the identity of the substance (the mental state component of the crime). When the possession laws are applied to somewhat arcane biota, as California is attempting to do in this case, an absurdity arises which

to any rational person unequivocally signals that the law is being stretched far beyond its limits. The following example illustrates this point.

Imagine two people, Citizen A and Individual B, living on identical small acreages on which numerous plants and fungi naturally abound. Citizen A spends his time gazing at images flickering across the television screen, uninterested in the natural environment in the "big room." (The one with the really big blue ceiling and the big bright light.) Individual B, in contrast, takes an active and healthy interest in his natural surroundings and undertakes the enjoyable endeavor of caring for the plants and fungi on his property and learning a bit about them. As Individual B identifies the flora on his property one by one, he suddenly gains the "evil" and indeed "criminal" knowledge that San Pedro is growing on his property and that this cactus naturally contains the controlled substance mescaline. In other words, by the simple act of educating himself, Individual B would spontaneously become a Thought Criminal. By the simple, peaceful, and innocent act of identifying this plant, he gained knowledge which would itself be illegal when combined with the reality of the San Pedro cactus growing on his property. He failed to practice Crimestop.

FREEDOM IS SLAVERY

The government's prosecution in this case paints a surreal picture of reality, stranger than any vision elicited by hallucinogens. In this picture, individuals are not sovereign over their own minds, nature herself is decreed illegal, knowledge is criminal, and prison is the possible parlor of any person with vision and courage enough to proclaim jurisdiction over his or her own mind and body. It is offensive to the concept of human liberty that the government has claimed dominion over our own brains and makes criminals out of people who claim the right to control their brains by occasionally choosing to operate them with the assistance of entheogens. It is preposterous and repugnant for the government to now expand its claim of dominion over all plants and animals that themselves naturally embody controlled substances. Even Orwell in his most hair-raising disutopian fantasies could not have foreseen such a claim by the State.

"The two aims of the Party are to conquer the whole surface of the earth and to extinguish once and for all the possibility of independent thought."

Or did he?

FEDERAL CONVICTION FOR POSSESSION OF MUSHROOMS UPHELD

Federal prosecution for possessing psilocybin is extremely rare. In fact, until recently, it was difficult to determine whether the federal government had ever successfully convicted a person for possessing mushrooms that contain psilocybin. The debate was recently ended with the publication of an opinion by the United States Court of Appeals for the First Circuit in *U.S. v. Allen* (1st Cir. 1993) 990 F.2d 667, affirming a conviction under federal law for possession with intent to distribute mushrooms containing psilocybin.

Mr. Allen was arrested by federal agents after some United States Postal Inspectors, employing the "drug package profile" (previously discussed in Issue No.1, p.6 of TELR) discovered LSD in an Express Mail Package sent cross-country. The arrest of the person who unwittingly claimed the package subsequently led agents to find psilocybin containing mushrooms in a barn on Mr. Allen's family property. Mr. Allen was then prosecuted for possession of psilocybin; the primary evidence being the mushrooms seized from the barn. The agents also presented testimony of another person who claimed that he asked Mr. Allen if he could get him some psilocybin, and that Mr. Allen offered him the mushroom's in his barn for 250 dollars per quarter pound. (*Id.* at 670.) Based on this evidence, Mr. Allen was convicted, under federal law, of possessing psilocybin with the intent to distribute. The conviction was upheld by the First Circuit.

The tragic aspect of this case is that it appears that no one ever made the argument that although psilocybin is listed as a Schedule I substance under federal law (21 USC 812 (c)(15); 21 CFR sec. 1308.11(d)(23)), its scheduling is invalid because the government failed to comply with several mandatory requirements before listing the substance within Schedule I. (An argument which I hope to spell out in detail in a future issue of TELR.) Equally important, if not more important, it appears that Mr. Allen's attorneys never argued that the *mushrooms* themselves are not scheduled substances. Such an argument is premised on the fact that when Congress and/or the DEA has intended to schedule a particular plant or cactus, it has done so explicitly. (See, "Criminalizing Nature & Knowledge" in this issue) In other words, it is certainly arguable that while possession of psilocybin itself is expressly outlawed under federal law, Congress has never criminalized the possession of mushrooms that naturally contain psilocybin. It is unfortunate that these arguments were not made on behalf of Mr. Allen.

The handling of this case underscores the crucial need to seek specialized representation if ever charged with an entheogen related crime. The best that can be said is that because these arguments were not raised or decided in *Allen* they remain viable, and could serve as a defense in a future case concerning a federal prosecution for possession of mushrooms that naturally contain psilocybin.

PEYOTE EXEMPTIONS VERBATIM

CAUTIONARY NOTES: Readers are reminded that statutes alone rarely tell the whole story. Readers should consult court opinions in their jurisdiction of interest to determine how narrowly or broadly a particular exemption has been construed. Note also that, with the exception of California and Oklahoma, the following survey includes only legislative exemptions and does not include judge-made exemptions that may exist in a particular state. Finally, note that many states, including some of those listed below as "no explicit legislative exemption found," have statutory sections authorizing the modification of their controlled substance schedules to reflect any changes made in the federal schedules. An argument might be made that such sections implicitly adopt the federal exemption for religious peyote use.

THE FEDERAL EXEMPTION (21 CFR 1307.31 (1993)) The listing of peyote as a controlled substance in Schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church, and members of the Native American Church so using peyote are exempt from registration. Any person who manufactures peyote for or distributes peyote to the Native American Church, however, is required to obtain registration annually and to comply with all other requirements of law.

UNIFORM CONTROLLED SUBSTANCES ACT OF 1990. *The Uniform Controlled Substances Act of 1990 is the model upon which nearly every state bases its controlled substances statutes. Unfortunately, the Uniform Act does not contain an express exemption for religious use of peyote or any other controlled substance. However, the drafters of the Uniform Act did include a "comment" admonishing:*

Although peyote is listed as a Schedule I controlled substance in the act and under Schedule I of the federal act, a separate federal regulation (21 CFR 1307.31 (April 1, 1989)) exempts the nondrug use of peyote in bona fide religious ceremonies of the Native American Church. In light of *Employment Division v. Smith* 494 U.S. 872, 108 L.Ed.2d 876, 110 S.Ct. 1595 (1990), states should consider including in Schedule I an exemption similar to that found in 21 CFR 1307.31. (Uniform Controlled Substances Act (1990) (U.L.A.) sec, 204, "comment".)

ALABAMA No explicit legislative exemption found.

ALASKA Stat. Sec. 11.71.195 (1989) A substance the manufacture, distribution, dispensing, or possession of which is explicitly exempt from criminal penalty under federal law is exempt from the application of this chapter....

ARIZONA Rev. Stat. Ann sec. 13-3402(B) (West Supp. 1988.) (B) In a prosecution for violation of this [criminal code section making it a felony to possess, sell, transfer, or offer to sell or transfer peyote], it is a defense that the peyote is being used or is intended for use:

1. In connection with the bona fide practice of a religious belief, and
2. As an integral part of a religious excise, and
3. In a manner not dangerous to public health, safety or morals.

ARKANSAS No explicit legislative exemption found.
(Arkansas schedules are not codified. Administrative rules not available.)

CALIFORNIA No explicit legislative exemption found. *However, in People v. Woody (1964) 61 Cal.2d 716, 394 P.2d 813, 40 Cal.Rptr. 69, and In re Grady (1964) 61 Cal.2d 887, 394 P.2d 728, 39 Cal.Rptr. 912, the California Supreme Court held that a person's use of "peyote in a bona fide pursuit of a religious faith" is protected by the First Amendment of the Federal Constitution.* (*Woody*, 61 Cal.2d at p. 717; Accord, *Grady*, 61 Cal.2d at p. 888.)

COLORADO Rev. Stat. Sec. 18-18-418(3) (West Supp. 1993) & sec. 12-22-317(3) (West Supp 1993.) The provisions of this part 3 [the Colorado Controlled Substances Act of 1992, sec. 18-18-101 et. seq.] do not apply to peyote if said controlled substance is used in religious ceremonies of any bona fide religious organization.

CONNECTICUT No explicit legislative exemption found.

PEYOTE EXEMPTIONS (Cont'd.)

DELAWARE No explicit legislative exemption found.

D.C. No explicit legislative exemption found.

FLORIDA No explicit legislative exemption found.

GEORGIA No explicit legislative exemption found.

HAWAII No explicit legislative exemption found.

IDAHO Code sec. 37-2732A (1993 Supp.) Sacramental use of peyote permitted.–The criminal sanctions provided in this [Controlled Substances] chapter do not apply to that plant of the genus Lophophora Williamsii commonly known as peyote when such controlled substance is transported, delivered or possessed to be used as the sacrament in religious rites of a bona fide native American religious ceremony conducted by a bona fide religious organization; provided, that this exemption shall apply only to persons of native American descent who are members or eligible for membership in a federally recognized Indian tribe. Use of peyote as a sacrament in religious rites shall be restricted to Indian reservations as defined in subsection (2) of section 63-3622Z, Idaho Code. A person transporting, possessing or distributing peyote in this state for religious rites shall have on their person a tribal enrollment card, a card identifying the person as a native American church member and a permit issued by a bona fide religious organization authorizing the transportation, possession and distribution of peyote for religious rites.

ILLINOIS No explicit legislative exemption found.

INDIANA No explicit legislative exemption found.

IOWA Code Ann. sec. 124.204 (8) (West 1993) 8. PEYOTE. Nothing in this [Controlled Substances] chapter shall apply to peyote when used in bona fide religious ceremonies of the Native American Church; however, persons supplying the [product to the church shall register, maintain appropriate records of receipts and disbursements of peyote, and otherwise comply with applicable requirements of this chapter and rules adopted thereto.]

KANSAS Stat. Ann. sec. 65-4116 (c) (8) (1992): (c) The following persons need not register and may lawfully possess controlled substances under this act, as specified in this subsection: (8) any person who is a member of the Native American Church, with respect to use or possession of peyote, whose use or possession of peyote is in, or for use in, bona fide religious ceremonies of the Native American Church, but nothing in this paragraph shall authorize the use or possession of peyote in any place used for the confinement or housing of persons arrested, charged or convicted of criminal offense or in the state security hospital.

KENTUCKY No explicit legislative exemption found.

LOUISIANA No explicit legislative exemption found.

MAINE No explicit legislative exemption found.

MARYLAND No explicit legislative exemption found.

MASSACHUSETTS No explicit legislative exemption found.

MICHIGAN No explicit legislative exemption found.

PEYOTE EXEMPTIONS (Cont'd.)

MINNESOTA Stat. Ann. sec. 152.02 subd. 2 (4) (West 1989): *In same subsection declaring peyote a Schedule I substance under Minnesota law:* (4) Peyote, providing the listing of peyote as a controlled substance is Schedule I does not apply to the non drug use of peyote in bona fide religious ceremonies of the American Indian Church, and members of the American Indian Church are exempt from registration, Any person who manufactures peyote for or distributes peyote to the American Indian Church, however, is required to obtain federal registration annually and to comply with all other requirements of law.

MISSISSIPPI — No explicit legislative exemption found.

MISSOURI — No explicit legislative exemption found.

MONTANA — No explicit legislative exemption found.

NEBRASKA — No explicit legislative exemption found.

NEVADA Rev. Stat. sec 453.541 (1991) The criminal sanction provided in NRS 453.011 to 453.552, inclusive, does not apply to that plant of the genus Lophophora commonly known as peyote when such drug is used as the sacrament in religious rites of any bona fide religious organization.

NEW HAMPSHIRE — No explicit legislative exemption found.

NEW JERSEY — No explicit legislative exemption found.

NEW MEXICO Stat Ann. sec. 30-31-6 (D) (1993 Supp.) The enumeration of peyote as a controlled substance does not apply to the use of peyote in bona fide religious ceremonies by a bona fide religious organization, and members of the organization so using peyote are exempt from registration. Any person who manufactures peyote for or distributes peyote to the organization or its members shall comply with the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 and all other requirements of law.

NEW YORK — No explicit legislative exemption found.

NORTH CAROLINA — No explicit legislative exemption found.

NORTH DAKOTA — No explicit legislative exemption found.

OHIO — No explicit legislative exemption found.

OKLAHOMA — No explicit legislative exemption found. *Oklahoma only explicitly schedules "mescaline," and does not separately schedule peyote. (Okla. Stat. Ann. Title 35 sec. 204(2)(11) (Supp. 94.) However, in Whitehorn v. State (1977) 561 P.2d 539 a Court of Criminal Appeals for Oklahoma held: "it is apparent that peyote is a material which contains a quantity of mescaline and therefore its possession is prohibited by the Oklahoma [law]." (Id. at p. 543.) In this same case, the court also recognized a religious protection: "...in a prosecution for possession of peyote under the [Oklahoma law] it is a defense to show that peyote was being used in connection with a bona fide practice of the Native American Church and that it was used or possessed in a manner not dangerous to the public health, safety or morals." (Id.* at p. 545.)

OREGON Rev. Stat. Title 37 sec. 475.992 (5) & (6) (Supp. 1992.) (5) In any prosecution under this section for manufacture, possession or delivery of that plant of the genus Lophophora commonly known as peyote, it is an affirmative defense that the peyote is being used or is intended for use: (a) In connection with the good faith practice of a religious belief; (b) As directly associated with a religious practice; and (c) In a manner that is not dangerous to the health of the user or other who are in the proximity of the user.

(6) The affirmative defense created in subsection (5) of this section is not available to any person who has

PEYOTE EXEMPTIONS (Cont'd.)

possessed or delivered the peyote while incarcerated in a correctional facility in this state.
(1991 c. 329 sec. 1, notes that this exemption was approved by the Governor and filed in the office of the Secretary of State on June 24, 1991; obviously motivated by the Smith decision.)

PENNSYLVANIA No explicit legislative exemption found.

RHODE ISLAND No explicit legislative exemption found.

SOUTH CAROLINA No explicit legislative exemption found.

SOUTH DAKOTA Codified Laws sec. 34-20B-14 (17) (1993): *In section declaring peyote a Schedule I substance*: (17) Peyote, except that when used as a sacramental in services of the native American church in a natural state which is unaltered except for drying and curing and cutting or slicing, it is hereby excepted.

TENNESSEE No explicit legislative exemption found.

TEXAS Health & Safety Code Ann. sec. 481.111(a) (Vernon 1991.) The provisions of [the] chapter relating to the possession and distribution of peyote do not apply to the use of peyote by a member of the Native American Church in bona fide religious ceremonies of the church.... An exemption granted to a member of the Native American Church under this section does not apply to a member with less than 25 percent Indian blood.

UTAH No explicit legislative exemption found.

VERMONT No explicit legislative exemption found.

VIRGINIA No explicit legislative exemption found.

WASHINGTON No explicit legislative exemption found.

WEST VIRGINIA No explicit legislative exemption found.

WISCONSIN Stat. Ann. sec 161.115 (West 1989) Native American Church exemption. This [Controlled Substances] chapter does not apply to the nondrug use of peyote and mescaline in the bona fide religious ceremonies of the Native American Church.

WYOMING Stat. sec 35-7-1044 (1988) Peyote delivered, possessed or used for religious sacramental purposes. Nothing in this [Wyoming Controlled Substances] act shall be construed to prohibit delivery, possession or use of peyote in natural form, when delivered, possessed or used for bona fide religious sacramental purposes by members of the Native American Church of Wyoming.

2-CB UPDATE

Final Rule Issued Making 2-CB a Schedule I Controlled Substance

As reported on pages 4-5 in the last issue of TELR, the DEA published (November 4, 1993, 58 FR 58819) a notice of intent to temporarily place 4-bromo-2,5-dimethoxyphenethylamine (a.k.a. 2-CB) into Schedule I of the CSA. Effective January 6, 1994, the DEA issued its final rule, thereby amending 21 CFR 1308.11(g)(5) to add to Schedule I: "4-bromo-2,5-dimethoxyphenethylamine, its optical isomers, salts and salts of isomers-7392. Some other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B."

AET UPDATE - ALERT

Page 4 in TELR No.1, reported the DEA's final ruling of March 12, 1993, to temporarily place alpha-ethyltryptamine in Schedule I. Since without additional action the temporary placement would automatically expire at the end of one year, the DEA, on March 7, 1994, published a Notice to permanently place alpha-ET into Schedule I. (See 59 FR 10718.) By publishing this notice, the temporary scheduling of alpha-ET is extended for 6 months to September 12, 1994, and if a final rule is issued, alpha-ET will *permanently* be placed into Schedule I. If you are opposed to the permanent scheduling of alpha-ET as a schedule I substance, you should write (Administrator, Drug Enforcement Administration, Washington, DC 20537, Attn.: DEA Federal Register Representative) with your objection and request a hearing on the proposed scheduling. Comments must be received on or before April 6, 1994. For further information, the DEA suggests contacting Howard McClain, Jr., of the DEA, (202) 307-7183.

JUST SAY KNOW

(A Column – or Two – of Practical Legal Information)

Consensual searches

In my criminal defense practice, I see far more clients arrested following a consensual search than as the product of a search warrant. (Note also that the search that uncovered the toads, cacti and mushroom mentioned in the article beginning on page 7, was consensual. The man let the officers search his home after several officers came to his home without a warrant, told him they had heard rumors about toad smoking, and asked for consent to search his house. The result is that he is now facing felony drug charges and could potentially go to state prison for several years if he loses the case.) All these arrests were avoidable if the person had simply stood his ground and refused to waive his Fourth Amendment right.

The Fourth Amendment protects you from unreasonable searches by government agents, BUT YOU WAIVE THAT PROTECTION IF YOU CONSENT TO A POLICE OFFICER'S REQUEST TO SEARCH. In many cases, police officers who have a hunch that a person might be in possession of contraband, but don't have enough evidence to obtain a search warrant, will casually ask the person if he or she wouldn't mind letting them look through the person's backpack, glove-box, trunk, home, office, backyard, shed, or you name it. Often the request for consent is made very nonchalantly. I've seen numerous cases were officers will stop a vehicle for a routine traffic violation, but acting on the hunch that the person might have drugs in the trunk, tell/ask, the person "would you mind opening the trunk?" Many people do not understand that this is a *request* to search, and that they may and should refuse to consent (i.e., refuse to open the trunk in this example). Remember, anytime a police officer without a warrant asks you if they can look inside something, they are asking you to waive your Fourth Amendment right to be free from unreasonable searches. If an officer asks you for consent to search, it means that he is looking for evidence that he doesn't have --yet. Don't give it to him by consenting.

Officers do not need to read you your rights before asking for consent. Also, they do not need to get your consent in writing. The advice of every defense attorney I know is NEVER CONSENT TO A SEARCH. Simply tell the officer that you have private personal items in the area or container that they want to search and that you do not want the officer looking through your things. Do not feel guilty, you are simply asserting your constitutional right and have every right to do so. Refusing to consent to a search, cannot itself be used as evidence that you are hiding something illegal. Don't naively think that by consenting to an officer's request to search, the officer will forego the search satisfied that you must not be hiding anything. Any officer who is given consent to search will search. You should also know that if you do (foolishly) consent to a search, you have a right to withdraw your consent at anytime BEFORE the officer finds incriminating evidence.

The bottom line is that you never gain anything by consenting to a search. To the contrary, you give up one of your most important rights under the Federal Constitution, and if the officer finds anything incriminating during the search, the evidence will be seized and used against you.

NEXT ISSUE

A review of the case-law on mushrooms!!

STAY INFORMED !

The Entheogen Law Reporter is published quarterly. A one year subscription is $25 in the U.S.A., $30 to all other destinations. *Please make check or money order payable to Richard Glen Boire.*

Statement of Purpose

Since time immemorial, humankind has made use of entheogenic substances as powerful tools for achieving religious insight and understanding. In the twentieth century, however, these most powerful of religious and epistemological tools were declared illegal and their users decreed criminals. The Shaman has been outlawed. It is the purpose of this newsletter to provide the latest information and commentary on the intersection of entheogenic substances and the law.

How To Contact The Entheogen Law Reporter

Please address all correspondence to Richard Glen Boire, The Entheogen Law Reporter, Post Office Box 73481, Davis, California, 95617-3481. Contact can also be made via Internet E-mail to RGBoire@ACO.COM.

Confidentiality

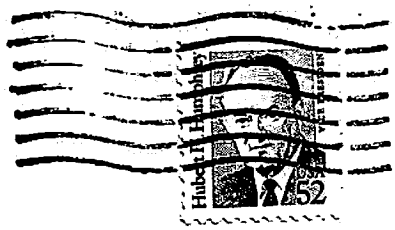
Subscriber information is strictly confidential. The subscriber list is not released to anyone for any reason. Issues are mailed with a plain cover using only our address and the acronym "TELR."

Copyright & License

Disclaimer

The Entheogen Law Reporter is not engaged in rendering legal or other professional advice, and assumes no responsibility for the statements and opinions advanced by any of its writers or contributors. The information herein is subject to change without notice, and is not intended to be, nor should it be considered, a substitute for individualized legal advice rendered by a competent attorney. If legal service or other expert assistance is required, the advice of a competent attorney or other professional should be obtained.

TELR
Post Office Box 73481
Davis, California 95617-3481



SOMA GRAPHICS
2225 H Street
Sacramento, CA 95816