

12-20-2006

# Pot Pope Imprisoned

Donald E. Wilkes Jr.

*University of Georgia School of Law*, [wilkes@uga.edu](mailto:wilkes@uga.edu)

---

## Repository Citation

Wilkes, Donald E. Jr., "Pot Pope Imprisoned" (2006). *Popular Media*. Paper 157.  
[http://digitalcommons.law.uga.edu/fac\\_pm/157](http://digitalcommons.law.uga.edu/fac_pm/157)

This Article is brought to you for free and open access by the Faculty Scholarship at Digital Commons @ Georgia Law. It has been accepted for inclusion in Popular Media by an authorized administrator of Digital Commons @ Georgia Law. For more information, please contact [tstriepe@uga.edu](mailto:tstriepe@uga.edu).

# POT POPE IMPRISONED

Published in Flagpole Magazine, p. 31 (December 20, 2006).

Author: Donald E. Wilkes, Jr., Professor of Law, University of Georgia School of Law.

From 1995 to 2003, the most recent year for which we have statistics, sentenced drug offenders accounted for 49% of the growth in the number of inmates in federal prisons. In 2003, 55% of all federal prison inmates (87,000 of 158,000) were sentenced for drug offenses.

The most famous of the federal inmates incarcerated for a drug offense in 2003 was Tommy Chong of the legendary comedy team of Cheech and Chong. Chong, a movie actor, comedian and musician nicknamed “the pope of pot” because of the hilarious, mischievous stoner characters he played in a half-dozen pro-marijuana movies he co-starred in with Cheech Marin, began service of his nine-month sentence on Oct. 8, 2003. It was while serving his federal sentence in a privately owned California prison operated by a foreign company that Chong started work on his new book with the wonderful double-pun title, *The I Chong: Meditations from the Joint* (Simon Spotlight Entertainment, New York, 2006).

At 213 pages, *The I Chong* is a short, thoroughly enjoyable autobiographical book. It is alternately witty, introspective, and politically fiery. The book’s coverage is not limited to Chong’s prison experiences. It is, in the words of reviewer Scott Lamb, “a story that’s partly an account of his trial and jail time, partly a memoir about growing up half Irish and half Chinese in Calgary, Alberta, and partly a collection of spiritual advice.” The book (as another reviewer, Paul Hackett, notes) is “part memoir, part spiritual explorations of [Chong’s] time in prison, and part political indictment of the eroding civil liberties in American society.”

Although his punishment was lenient compared to the many draconian sentences imposed as part of the this nation’s costly, futile, fascistic war on drugs, which insanely treats drug abuse as a criminal rather than a social or medical problem, Tommy Chong’s encounter with the criminal justice system encapsulates much of what’s horribly wrong with drug prohibition.

Chong's criminal case began at 5:30 a.m. on Monday, Feb. 24, 2003, when federal drug police raided his home in Pacific Palisades, California. It was all part of "Operation Pipe Dreams," a nationwide crackdown on alleged "drug paraphernalia traffickers" organized by John Ashcroft's Department of Justice, in which DEA agents and other police simultaneously raided homes and businesses across America, and arrested 55 persons. Atypically, the police who raided Chong's home pursuant to a search warrant for bongs did not break down the door to Chong's house or detonate an explosive device inside before entering. Unusually, they did not at gunpoint force the residents of the home to prone out on the floor or handcuff them. They did not even arrest Chong that day. Nonetheless, there were various overkill tactics now common in drug law enforcement.

Around a dozen DEA agents conducted the pre-6 a.m. raid. "They looked," Chong writes, "like a group of oversize trick-or-treaters in alien costumes." They were armed with automatic weapons. They were dressed in "riot gear." They wore flak jackets, helmets, and visors. They barked out orders and rushed from room to room, ransacking the premises. They prevented Chong from calling a lawyer. Their mentality was that "every doper, hippie bastard [is] the son of the devil and should be rounded up and exterminated as soon as possible." They have "a habit of treating pot just the same as they treat heroin." When Chong tried to reason with them, it "was Anne Frank talking to Herr Mengele." Meanwhile police helicopters hovered in the sky over the house.

Chong's sentence was imposed on Sept. 11, 2003, following his May 12 guilty plea to a misdemeanor charge of conspiracy to sell or to offer to sell "drug paraphernalia" in interstate commerce.

Chong was a victim not only of our war on drugs but of our sinister plea-bargaining system, under which defendants who exercise their constitutional rights to plead not guilty and be tried by a jury are, in the event of conviction, dealt with far more severely than persons who waive their rights and plead guilty. The system is designed to deter citizens from invoking their trial rights by rewarding defendants who cooperate by pleading guilty and penalizing convicted defendants who insist on a trial. It permits prosecutors to structure criminal charges so as to deter defendants from asserting their right to be tried. It permits courts to routinely impose on convicted persons who plead not guilty far harsher sentences than the sentences

imposed on similarly situated defendants who plead guilty. As a consequence, our criminal justice system is one of justice without trial. In the federal courts in 2003, for example, 75,805 defendants were convicted, of whom 72,589 (96%) pleaded guilty. There were only 3,528 federal criminal trials in 2003 (with 704 of these trials, or 20%, resulting in an acquittal).

Chong pleaded guilty, not because he was guilty or because a jury likely would have found him guilty, but because prosecutors, using one of their standard blackmail tactics to coerce a plea, threatened to prosecute the defendant's loved ones—here, Chong's wife and son—if he went to trial. “The deal was, either I would plead guilty ... or they would charge both my wife and son... *Those dirty bastards!* I thought. *Those dirty rotten bastards! They got me!* ... There was no way on earth I would put my family at risk. But by then I knew how the government operated. They had no qualms about incarcerating innocent people.”

*The I Chong* is further proof--as if we needed any--that icy winds of repression are howling across the United States, that our rights are being downsized and discarded, and that government acts as if it is above the law. Bummer.