

Book Proposal:*CRACKPOT**The War on (everything but) Drugs*

by Dan Baum

"Drug use -- especially heavy drug use -- destroys human character. It destroys dignity and autonomy, it burns away the sense of responsibility, it subverts productivity, it makes a mockery of virtue." -- Drug Czar William Bennett to the Kennedy School of Government at Harvard, 11 December 1989

Two weeks after the 1992 election, George Bush's number-two drug advisor finally agreed to be interviewed. A guard behind bulletproof glass buzzed me into a windowless waiting room at the Office of National Drug Control Policy. Facing the couch were the recruitment posters of the War on Drugs: a fried egg in a pan, a girl with a pistol in her nose, a toe with a tag on it. Behind me hung pictures of William Bennett shaking hands. With the president of Columbia. With the Secretary of Education. With Darryl Strawberry. With a fourth grade class in Harlem. With camouflaged soldiers. With Arnold Schwarzenegger. With William Rehnquist.

Bennett had been gone from this office for almost two years, but those were the days to remember. Bennett's ONDCP mobilized a nation, coordinating the efforts by Justice, Health and Human Services, the Treasury, the Pentagon -- even the Agriculture and Interior Departments -- to stamp out illegal drug use. This office led a national anti-drug campaign that consumed more money than Head Start, childhood immunizations, Star Wars and the entire Environmental Protection Agency put together. From this office emanated a philosophy so compelling that for five years, Americans called drugs the country's "number-one problem" and were measurably more afraid of them than they were of unemployment or the deficit. In one survey, most people said they would "give up some freedoms" to stamp out drug use. And when asked the question outright, Americans said yes, drug enforcement was one of the few government services for which they were willing to pay higher taxes. In 1989, Bush devoted his entire first televised address as president to illegal drugs. "Our country's most serious problem," he said, holding up a bag of crack, "is cocaine."

It wasn't, of course; not then, not ever. In the year he said that, some 350,000 people were using cocaine daily. That's a big number and a serious health issue worth addressing. But during the Bush administration alone the United States spent some \$120 billion on its "drug problem," or about \$342,000 per hard-core user. At a time when 15 times as many American children went hungry and 50 times as many people went

homeless, spending that kind of money on drug abusers smacked of the Pentagon's thousand-dollar toilet seats.

This is what I'd come to the Office of National Drug Control Policy to ask about. What evidence did it have, I wanted to know, that fighting drug abuse was worth such a massive effort? I had with me a stack of studies from independent researchers around the country challenging many tenets of the Drug War. Now I wanted to see the Drug Policy Office's own data, the numbers used to demonstrate, for example, that drugs make people violent, that "crack babies" never recover, that clamping down on the drug trade reduces overall crime. The government was claiming success even as mayors and social workers were complaining drug abuse was as widespread as ever. How could the Drug Policy Office be boasting of "victory," or even "progress" in the War on Drugs? I expected some compelling answers from John Walters, whose letterhead identified him as Deputy Director for Supply Reduction.

The press secretary appeared at the bulletproof window and opened the door to me by punching 031389 -- Bill Bennett's Senate confirmation date -- into the electronic lock. I followed him down a long silent hallway. No phones rang, I heard not even the whir of a photocopier. Once, this had been the most happening office in Washington, a city obsessed with who's hot and who's not. But George Bush had let the drug issue wither from neglect since the War with Iraq, and as it faded so did the prestige of the Drug Policy Office. Now there was a new president-elect whose credentials as a drug-fighter were questionable at best. Doors stood open to rooms with empty desks. "They're off writing resumes," the press secretary snorted darkly.

Walters leapt up from behind his desk to shake hands, a speedy, compact man resembling Richard Dreyfuss. Yes, he'd be out of a job when the Clinton team took over, he said cheerfully, but that wasn't important. "The main thing is that the new administration keep up the pressure on drug abuse," he said. "We're on the verge of real success."

"That's just what I'm here for," I said. "May I look at your figures on that?" Walters buzzed for coffee.

"The idea that drugs are a symptom of social problems is false," he said. "Poverty doesn't cause drugs; drugs cause poverty."

"Very good," I said, opening my notebook. "What studies do you have on that?" I heaved my briefcase onto the desk and started pawing through the documents I'd brought along. "Because there's one here from Florida State University...."

Walters cut me off. "The fight against drug abuse isn't something you can snip apart like that," he said. "If you think drugs are bad, that they make people bad

neighbors, horrible parents, dangerous drivers and what have you, then you think drugs are bad."

I told him I understood; I was about to become a father and was starting to look at teenage junkies with new horror. But flipping through my papers I pointed out that we'd spent ourselves into the poorhouse fighting drugs. We now had more people in federal prison for drug crime than were in federal prison *for all crimes put together* when Ronald Reagan took office. The courts were at the point of collapse.

"The War on Drugs isn't about charts and graphs and figures," Walters said. "There's a moral dimension here. The question of right and wrong is crucial."

"But every agency has to show results," I pressed. "Surely you have some research that justifies this huge effort."

Walters's cheerfulness drained away. He seemed suddenly tired and impatient. "It's very hard to get to the bottom of some of this," he murmured, waving me out of his office. "If you want mass studies, there aren't any."

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So we had our War on Drugs. We used the language of war, we wrote the budgets of war, we carried the weapons of war and we suffered the casualties of war. It's no metaphor; in the name of curing a disease that afflicts fewer Americans than diabetes and kills fewer than the flu, we have turned our country into a battlefield. National Guard helicopters fly combat missions in Maine. SWAT teams in Chicago cordon off entire neighborhoods and run "sweeps" in which everybody -- criminal and innocent alike -- is searched and questioned. A reclusive Los Angeles millionaire is killed by police responding to an anonymous pot-farm tip that turns out to be false. The list goes on, and the violence begets violence. By the government's own reckoning, three-quarters of the bloodshed recorded as "drug related" is dealers killing dealers over commodities whose chemical values are measured in pennies and whose black-market street values are measured in billions.

Even William Bennett in his heyday conceded that the vast majority of drug users are middle-class suburban whites. If the pharmacological substances were making people violent, we'd see yuppies shooting Uzis out the windows of their BMWs. Instead, the violence we associate with drugs is concentrated in Compton and the Bronx, Cabrini Green and Anacostia -- the black and brown hearts of urban America where the full fury of the Drug War has been directed. A quarter of the nation's young black men are now under some form of judicial control -- jail, prison, probation or parole. In places like Baltimore and Washington, DC, the number is closer to half. To

achieve the Drug War's single success --slightly reduced cocaine use by middle-class whites -- we have criminalized a generation of black men and left fatherless a generation of African-American children.

Ironically, during the period we fought our Drug War, white middle-class Americans did a good job of scaling back on other unhealthy habits -- booze, butterfat, cigarettes and sloth --without so much as a shot fired. We didn't need a "war" to do any of that.

It's 25 years since Richard Nixon declared the first "war on drugs," and drugs have no more been eradicated than the horrors they supposedly spawn. Our police are arresting a million people a year for drug crime and warehousing them in prison at \$30,000 a year apiece; many of them are doomed to stay there until well into the next millennium. It's a little embarrassing, really, to remember all the money spent and people jailed, the fiery speeches and the agony inflicted, and have so little to show for it. Lockup figures and wildly inflated "street values" of seized drugs have replaced the Vietnam-era bodycount, and are as good a measure of who is winning the war.

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Candidate Bill Clinton defined insanity as "continuing to do what you know doesn't work." President Bill Clinton launched his drug policy by doing exactly that, allocating money to enforcement over treatment by the same three-to-one ratio as Bush did. Congress plays along; when it chose to trim Clinton's budget, it took the money off the *treatment* side of the ledger, leaving the enforcement war chest intact. The Drug Enforcement Administration still operates out of its forbidding twin black towers overlooking the Pentagon. Drug War laws are still on the books that let police search your home or car without a warrant, fly overhead looking through your windows, put you in prison for life without parole for simple possession or take away your house -- without a trial -- on the basis of a single marijuana seed.

At a high-level drug-policy conference I attended in June, the one person present with real power to begin dismantling the Drug War -- Senate Judiciary Committee Chairman Joseph Biden --illustrated how unwilling Congress is to lead the country toward a saner future. Biden gave the most hawkish speech of the day, calling harsh drug laws "the thin line protecting us from anarchy." In a strident report titled, "The President's Drug Strategy: Has it Worked?" Biden's committee last year argued: no, but only because President Bush didn't spend *enough* money on enforcement, wasn't tough *enough* on those addicted to drugs, and didn't give *enough* power and money to the military to shift its mission to intercepting drugs. In 194 pages, Biden's report never

once used the words "racism," "AIDS," "poverty," "tobacco," or "civil liberties." As much as Republicans, Democrats still like their drug-war rhetoric served hot.

And who can blame them? Of all the wars the United States has fought since 1945, none has enjoyed the popularity of the War on Drugs. The consensus has been so complete -- crossing racial, gender, class and geographical lines -- that it's hard to tell the difference between the Drug War rhetoric of Jesse Jackson and Jesse Helms.

But as bodies stack up, courts break down and prisons overflow, the reality of the Drug War is becoming too obvious to ignore and brave souls both in and out of government are starting to speak up. Fifty federal judges have refused to preside over any more drug cases because the War on Drugs is "horribly unjust" and "a shocking waste of taxpayers' money." The mayors of San Francisco, Oakland and San Jose held a page-one press conference in June to say "the Drug War has failed." The surgeon general designate wants to allow marijuana as medicine, the new attorney general wants abuse treated not as crime but as illness, and the Chief Justice of the Supreme Court wants the Drug War's harsh mandatory penalties repealed. Dr. Joycelyn Elders speaks of medical necessity, Janet Reno of childrens' welfare and William Rehnquist of a bureaucratic nightmare; in Rehnquist's view, the court system is choking to death on drug defendants. With those in the trenches of the Drug War expressing doubts, and with the public freshly sensitized to foolish government spending, it won't be long before talk show hosts are asking: what *is* this all about, anyway?

Like the war survivors we are, it's time to emerge from cover and poke through the ruins. What have we gained, and what have we lost? And why?

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At the height of the War on Drugs, aspirin killed more Americans each year than cocaine. Fifteen times as many people died from alcohol, and 60 times as many from tobacco, as died from illegal drugs. Drugs were undeniably tragic to certain individuals, and each story of addiction or death is more heartbreaking than the last. But for the nation as a whole, drugs were at no time our most devastating health crisis, much less a major threat to the Republic.

It wasn't that drugs were the country's "number-one problem," it was that *fighting* drugs was the country's number-one solution.

Waging a "War on Drugs" served a lot of peoples' interests, not just those of a single administration or a single party. At one time or another, almost everybody found a way to benefit by invoking the specter of illegal drugs: parents baffled by their teens' behavior, city police starved for new sources of revenue, conservative politicians

pandering to their constituents' moral dudgeon, liberal politicians needing a chance to look "tough," presidencies looking for distractions from a sick economy, inner cities screaming for attention, generals looking for an enemy to replace Communism -- they all found answers in the War on Drugs.

CRACKPOT will be the first book to explain how reasonable concern about potentially dangerous drugs grew into a national jihad that consumes more of our money than NASA, sees more black men in prison than in college, and has compromised the civil liberties of every American, drug user or not. The book I envision will do for the War on Drugs what Randy Shilts's *AND THE BAND PLAYED ON* did for the AIDS crisis and Susan Faludi's *BACKLASH* did for the 1980s' anti-feminist reaction -- it will trace the evolution of a political and social process that moved too slowly and subtly to follow in the daily papers.

I am a reporter, and *CRACKPOT* will be a work of journalism, telling the story of the War on Drugs through the eyes of the characters who waged and suffered it. I've been writing about the War on Drugs for more than a year for publications as diverse as *The Nation* and *The American Bar Association Journal*. I spent the first six weeks of this year in Washington, DC, on a grant from the Fund for Constitutional Government, conducting dozens of face-to-face interviews. Republicans spoke freely because they no longer had anything to lose, and Democrats shared information and documents with the giddy abandon of the newly empowered. Even some former drug warriors are starting to have regrets, and as my reputation as an honest and thorough reporter spreads through their ranks, several have sought me out.

For example, Don Santarelli, a top official in the Nixon Justice Department and one of the key characters in the advent of the War on Drugs, had me to his home for a five-hour breakfast because he's "angry and ready to go on the record" about how the campaign against drug abuse grew into a monster. He's eager to continue our discussion. Nick Kozel, a government drug-abuse researcher and "discoverer" of crack, has much more to tell me about how drug abuse information has been suppressed and misused. A fed-up source at the DEA took me past an armed guard into the Drug War's inner sanctum, the "Command Center," whose electronic maps, multiple TV screens, smoked-glass translators' booth and oak table with recessed phones look like the War Room in "Dr. Strangelove." A senior official at Justice presented me with a confidential report on the weak link between drugs and crime, the existence of which he had denied only four months before. The outgoing director of the federal Bureau of Prisons, angry that the "product" of the Drug War was dumped into his overburdened lap, was glad to vent his spleen on the record. In all, I'm getting the kind of cooperation that would have been unthinkable even two years ago.

The War on Drugs didn't just happen; it was cultivated, and the people who cultivated it have names and addresses. *CRACKPOT* will be a yarn about them -- those who cynically manufactured and sustained drug hysteria for their own narrow ends,

and those who went along with the best of intentions. Above all, *CRACKPOT* will be told as a *story*, with plot and progression, characters and action. It will be, in other words, a book that people will read.

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Other books on the Drug War generally fall into three categories. The first is the shoot-'em-up tale of a big drug deal and its heroic undoing. Books such as *THE COCAINE WARS* by Paul Eddy (W.W. Norton, 1988) are entertaining but don't try to explain much. The second category is the polemic combining dark hints of CIA conspiracies with a tirade for legalization; useful information in such books as Jack Herer's *THE EMPEROR WEARS NO CLOTHES* (Queen of Clubs Publishing, 1985) is drowned out by the grinding of the ax.

Then there are the policy wonks. Both *THE MAKING OF A DRUG FREE AMERICA* by Mathea Falco (Times Books, 1992) and Elliott Currie's *THE RECKONING* (Hill and Wang, 1993), to choose two examples, posit that the War on Drugs could have eliminated drug abuse with subtle adjustments of law, budget or enforcement technique. They would fine tune a campaign I argue was essentially spurious; the War on Drugs was about a lot of things, but only rarely was it really about drugs. Stylistically, the books by Falco, Currie and the others are dry references for a narrow audience of policymakers, not a pleasurable read for a general audience.

SWORDFISH, the new drug book by David McClintick (Pantheon, 1993), is something of a hybrid. It presents a critique of the Drug Enforcement Administration by telling the tale of one terrifically exciting drug case. McClintick's book is a useful expose of an agency run amok and it complements *CRACKPOT*. It doesn't replace it, though. *CRACKPOT* is more than a slam at one bad bureaucracy; it explains the wider phenomenon that underlies it.

Rather than descending into arcane recommendations for tinkering with "drug policy" or ascending into dreams about legalization, *CRACKPOT* will step way back, to look at the Drug War in the context of the life and times of the nation as a whole. For a quarter century, the United States has scanned its inventory of problems -- hunger, illiteracy, pollution, racism and the rest -- and from that crowded shelf we've consistently selected drugs to be the demon. No other problem has sucked up as many taxpayer dollars, inspired as much torrid rhetoric, spawned such unholy violence. Drugs -- a problem that in terms of dollar costs and lives affected never rated very high -- were singled out to be excoriated with a passion once reserved for Nazis and Reds, to be the target of the country's biggest-ever law enforcement effort, to be "the nation's number-one problem." The question is why, and the book to answer that question is *CRACKPOT*.

CRACKPOT

The War on (everything but) Drugs

About the Author

Dan Baum has been a staff reporter for *The Asian Wall Street Journal* in Hong Kong, Singapore and Manila; a staff reporter for *The Wall Street Journal* in New York and Boston; and from 1985 to 1987 covered the Drug War as "major crime" reporter for *The Atlanta Journal-Constitution*.

Along with his wife, writer Margaret L. Knox, Baum opened a freelance bureau in Harare, Zimbabwe, in 1987 to help cover Africa for *The Washington Post*, *The San Francisco Examiner*, National Public Radio, the BBC and others.

Since returning to the United States in late 1989, Baum has been writing for *The Los Angeles Times*, *The Chicago Tribune*, *Smithsonian*, *Mother Jones*, *Sierra* and others. He has written about the War on Drugs for *The Nation*, *The American Bar Association Journal* and *The Village Voice*, coverage that won him a grant in 1992 from the Fund for Constitutional Government. In March, William F. Buckley devoted a syndicated column to praising Baum's *ABA Journal* Drug-War piece.

Baum and Knox live in Missoula, Montana, with their baby daughter, Rosa.

CRACKPOT: The War on (everything but) Drugs

Outline

CRACKPOT's introduction will make vivid in broad strokes the cost in violence, fear, civil liberties and taxpayer dollars the country has incurred to "stamp out" a health problem that is anecdotally compelling but statistically minor. The rest of the book will answer the question: how did this happen?

The short answer is that people from many walks of life and of many political persuasions converged, with a variety of motives, to support a War on Drugs. *CRACKPOT*, therefore, will be a character-driven book. The reader will follow a handful of important people from the Drug War's earliest days to the present, in which some are still Drug-War zealots and others are in a position to reflect critically upon their role.

CRACKPOT's structure will be generally chronologic. A short preface will briskly lay out the "pre-history" of the War on Drugs, showing how Americans have always used drug laws for wider purposes, specifically to surveil and harass the people they want to surveil and harass. The country's first drug ban explicitly targeted the opium of "the heathen Chinees." The first marijuana laws were passed by states fearing an immigration wave of "beet peons" from Mexico. Cocaine was first banned in the south to prevent an uprising of hopped-up "cocainized Negroes."

We didn't start fighting the modern War on Drugs, though, until Richard Nixon's 1968 campaign for the presidency, and *CRACKPOT* really begins there. The Drug War took some odd zig-zags during the Ford and Carter years, grew in earnest during the Reagan administration, climaxed during the early Bush era, and then tapered off to a schizophrenic policy of talking peace while continuing to approve warlike budgets.

Each chapter will represent a period of time. Some that I've roughly identified are:

- ++ Law and Order: 1967 through 1970
- ++ Zero Tolerance: 1975 through 1978
- ++ Just Say No: 1980 through 1984
- ++ The Toke Heard 'Round the World: 1985 and 1986

++ Mockery of Virtue: 1990

++ Apologies to None: 1991

++ War is Peace: The Early Clinton Years

Each chapter will in turn be broken into subchapters a few paragraphs to several pages in length that will focus on one moment in a character's story. My characters come from what I have identified as about six arenas: Congress and the White House, the courts and prisons (including defendants and convicts), the health care community, local law enforcement, the media, and citizen activists. I intend the book's dramatic tension to derive from the way disparate characters converged and built on each others' actions, sometimes unwittingly, to create the Frankenstein's monster the War on Drugs became. In addition to these character-centered subchapters, there will be short subchapters in which the drama is not necessarily provided by a subject I have interviewed -- one notes a series of sensational press stories that appeared in the summer of 1986, for example, and another outlines Ronald Reagan's incongruous assault on the Tenth Amendment.

The first time a character appears, *CRACKPOT* will provide a lively description and profile, sketching seminal events in the character's history that bring the character into the Drug War. Major characters may have several dramatic moments in the course of the text. Sometimes a change in a character's position regarding a Drug War policy is foreshadowed early on; other times it may come as a surprise. In the final chapters, some of the characters reflect on their earlier roles, often with remorse or at least a melancholy hindsight.

Here are short descriptions of some of the characters, to illustrate how they evolve and provide commentary on each other:

++ Don Santarelli, Republican counsel to the House Judiciary Committee in 1968, wrote laws that became key Drug War weapons --no-knock police entry, for example, and pretrial jail-without-bail. He and Egil "Bud" Krogh -- later of Watergate fame -- conceived the "law and order" platform Nixon rode to the White House, linking drugs, crime and the protest counterculture. In later chapters of *CRACKPOT*, Santarelli will become one of the most contrite of the disaffected drug warriors, "shocked and appalled" at the latest Supreme Court decisions.

++ Carlton Turner, a member of Ronald Reagan's drug-policy staff, shifted the focus away from "hard" drugs, which relatively few people use, toward marijuana, a drug that is used by Americans of every age, race and income bracket. The idea, which Turner still defends, was to broaden the Drug War's influence and make it felt in every neighborhood in America.

++ Attorney General Janet Reno was the state prosecutor in the "capital city" of the Drug War during its most intense period. Reno reacted by creating one of the nation's first "drug courts" in an effort both to handle the huge crush of cases efficiently and also to find alternatives to warehousing offenders in prison. Now she is trying to lead national drug policy in a new direction. When I met her at the drug conference in June and explained this book, she said "that sounds like a great idea." Whether or not she agrees to be interviewed, her story is amply available from the written record and from the people who worked alongside her.

++ Ripley Forbes has been Rep. Henry Waxman's staff expert on the drug issue for 14 years, an unusually long time for a Congressional aide to work on one issue for a single representative. Forbes was at the center of Drug War policymaking during its peak period, from the start of the Reagan administration. He watched, puzzled, as Carlton Turner shifted the focus of enforcement to marijuana. And he listened as members of Congress approved laws that they admitted, in whispers over cocktails, sickened them.

++ George Terwilliger, associate deputy attorney general in the Bush Justice Department, inherited a 200-year-old anti-slavery law that Congress had revived -- and immediately realized its potential. The law, allowing confiscation -- without trial -- of "drug-related" assets, became a \$1.6 billion a year money-maker in Terwilliger's hands. He still defends it energetically. ++ Laurie Robinson, chief of the criminal division of the American Bar Association, watched the Reagan and Bush Justice Departments used to drug issue to vilify the community of defense attorneys and lawyers in general -- a process that led to George Bush's attack on trial lawyers during the 1992 campaign. In Robinson's experience, Attorneys General Meese, Thornburgh and Barr's equating defense lawyers with "fellow travelers" of drug dealers wrecked the traditionally collegial relations between the Justice Department and the bar. And that, she says, has made all interactions between them more contentious, protracted and expensive.

++ District of Columbia patrolman Ron Hampton, president of the National Black Police Association, watched the "drug problem" transformed into a violence problem. Near the end of the book, he hefts the high-tech 15-shot Glock automatic he and all other DC cops have just been issued and laments the needless but dramatic replacement of the old .38-caliber six-shooter. The change is emblematic, Hampton believes, of a worthy struggle against street drug abuse that was bungled and replaced by an unwinnable full-scale war.

++ Illinois defense attorney James W. Reilly argued two separate run-of-the-mill drug cases that eventually went to the Supreme Court. Together, the two cases -- both of which Reilly lost -- helped effectively do away with the search warrant in the United States.

++ Orange County Superior Court Judge James Gray is a former military and civilian prosecutor and was, during the Reagan and early-Bush eras, a Drug-War zealot. But Gray, a self-described conservative Republican, becomes so disillusioned with the Drug War and its effect on the courts that in later chapters of *CRACKPOT* he becomes a champion of legalizing all drugs. His story is one of remarkable philosophical and political conversion.

++ Michael Quinlan spent his career in the federal Bureau of Prisons and this year retired as its director. Throughout the 1970's and 1980's, Quinlan pleaded in vain with a series of Attorneys General to consider the "downstream" implications of dragnet drug-enforcement policies. The Bureau Quinlan left behind is the fastest-growing agency in the federal government -- undergoing a 50-percent expansion in cells that is already inadequate.

++ Nick Kozel is chief of epidemiology at the National Institute of Drug Abuse. As a young researcher, Kozel helped conduct the study whose results helped launch the first War on Drugs in 1968. He was one of the first government researchers to "discover" crack in 1985. Kozel has been immersed in the drug-abuse research community from the beginning, observing the widening gulf between the reality of drug abuse and the punitive rhetoric advanced by the drug warriors.

++ Nancy Mulligan now works in Donna Shalala's Department of Health and Human Services, in the Center for Substance Abuse Prevention. In the Bush HHS, she helped write "Secretary Sullivan's Drug Free for a New Century" program, which she now describes as "a total propaganda job, terribly mean-spirited, with absolutely nothing to support it."

++ Bob Randall, a glaucoma patient, became the first of about a dozen legal marijuana smokers in the United States and a leader of the increasingly successful movement to get marijuana approved as medicine. It is through Randall that we learn late in the book how the AIDS crisis is forcing a softening on medical marijuana and the first real retreat from the War on Drugs.

++ Buddy Gleaton, a Georgia State University physical education professor, launched the Parents' Resource Institute for Drug Education Inc., or PRIDE. The specter of childhood drug abuse has been among the biggest motivators for waging the Drug War, and the parents' movement network has kept the issue boiling before the public.

++ Keith Stroup is executive director of the National Association of Criminal Defense Lawyers. As a young law-school graduate while Richard Nixon was still president, Stroup founded the National Organization for the Reform of Marijuana Laws, which remains the leading drug policy reform organization in the United States. He observed drug abuse metamorphose from a subject of debate into what he views as a quasi-religious crusade.

++ Phil Joanou organized advertisers in 1986 to form the Partnership for a Drug Free America to "unsell" drug abuse. Funded in part by the alcohol, tobacco and pharmaceutical industries, the Partnership assembles a billion dollars a year worth of donated talent and air time to promote its anti-drug message. Joanou remains proud of his work through the end of the book, though the Partnership's ads have gotten in trouble for perpetuating inaccuracies about "instant addiction" and for featuring blacks, while a far greater percentage of whites use drugs.

++ The media -- newspapers, TV news and Hollywood, played a huge role in promoting the War on Drugs -- and part of this is best illustrated simply by citing the headlines. But I will also interview media characters: colleagues now at *Time* magazine, *The New York Times*, *The Washington Post*, CNN and the networks have offered to get me interviews with the people at those agencies who have directed Drug War coverage. I'm making contacts in Hollywood; TV shows like *Miami Vice* and such movies as *Go Ask Alice* were as crucial to keeping the Drug War alive as any newspaper coverage. I will also draw on my own experience as "Drug War reporter" for *The Atlanta Journal-Constitution* in 1985 and 1986, when the Drug War kicked into high gear.

Following are a couple of minor but important characters who won't necessarily be followed the length of the book:

++ Willie Jones runs his own landscaping service in Nashville. In February 1991, Jones tries to fly to Houston to buy shrubbery for his business. Unfortunately, he fits a "drug courier profile" -- he is black, and he is trying to buy his ticket with cash. The ticket agent phones local DEA agents, who appear and confiscate the \$9,600 Jones is carrying to Houston to buy inventory. Jones is never charged with a crime, never placed on trial and never gets his money back. (The ticket agent, however, gets 10 percent for phoning in the tip.)

++ In 1991, Thomas Kline of Post Falls, Idaho writes a short letter to the editor of the *Coeur d'Alene Press* advocating the decriminalization of marijuana. A couple of days later, state drug agents search the garbage can behind his house -- which is legal without a warrant -- and find three grams of pot stems. On the strength of that evidence they get a warrant, find 17 joints in Kline's house and bust him. Defending the arrest, the agent in charge says a letter supporting decriminalization is an admission of drug use.

In the chapter summaries that follow, please remember you are getting only pieces of the story. Because they are excerpts, characters sometimes appear without introduction and, of course, stories are picked up and dropped in the middle. Also, my reporting so far has been aimed at throwing a rope around the subject and gauging its broad scope. By the time I write the book, I intend to know my characters down to what they eat for breakfast. I've gone wide; now I intend to go deep. The characters'

portrayal, in other words, will be far more detailed and human than what is possible here.

Law and Order: 1967 to 1970

Summary

For the first threescore years of this century, drugs were a law enforcement matter of little consequence. Police hassled junkies in the alleys and shooting galleries of America's cities, but drugs weren't a public issue. Nobody had yet discovered a reason to make them one.

And then along came the nineteen sixties.

In the spring of 1967, a squat, energetic Philadelphian named Nick Kozel had just finished a Peace Corps stint in Guayaquil, Ecuador, and was knocking around Washington, DC, looking for interesting work. A friend called him from the District of Columbia Department of Corrections; the director needed people to help conduct a survey, he said. Heroin use was believed to be rising in New York, and the director wanted to know how many of his own inmates had used the drug.

Kozel signed on and quickly recruited a cadre of students from George Washington University to interview the DC jail inmates. These were crazy times: some of the interviewers, self-styled campus revolutionaries, tried to foment rebellion inside the jail -- getting nothing but cold stares in return -- while others swiped a pile of "DC Dept. of Corrections" t-shirts and started a minor fad on campus. But as a group they did a good job of interviewing, and came out with the rather alarming news that almost half the inmates of the District of Columbia jail were heroin users. Kozel wrote a report, filed it, and didn't give it much more thought.

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Across town, a dark, elegant, 28-year-old former prosecutor named Don Santarelli was getting used to his new job as Republican counsel to the House Judiciary Committee. In those days of Democratic hegemony, the committee was something of a backwater, but Santarelli, fresh out of the University of Virginia Law School, was eager to make a name for himself. He sought a bold way his beleaguered party could snatch initiative from the Democrats, and especially from his nemesis, Lyndon Johnson's attorney general. Ramsey Clark, in Santarelli's view, coddled criminals. He'd spent millions on "prisoner rehabilitation." He'd supported *Miranda*. And he'd taken the

money out of bail, making prosecutors prove a suspect was dangerous if they wanted to hold him before trial. Santarelli thought Clark had stuck his neck out too far, and was vulnerable.

The papers had carried three big stories in the past year about people doing violence while on bail, and Santarelli began drafting a bill to make it easier for prosecutors to hold suspects before trial. By the mid-1980s, "preventive detention" would be commonplace, but in 1968 the idea was radical. Santarelli knew he faced an uphill fight.

While he was at it, he tacked another new idea onto his bill -- and eventually onto the War on Drugs. He called it "no-knock," and it would allow police to kick down doors while executing search warrants. No longer would addicts be able to flush their heroin packets down the toilet while police waited politely at the front door, listening to the furtive gurgling of the plumbing. If nothing else, Santarelli knew, the attempt to get these tough laws passed would make headlines.

Santarelli wrote his preventive detention and "no-knock" provisions narrowly; a judge would have to give specific approval in every case. He also counted on Earl Warren's police-wary Supreme Court to keep prosecutors on a short leash.

Even written narrowly, the preventive detention and no-knock bill went nowhere in 1968. It was too extreme. Like Kozel's DC jail report, it was filed away. But in his youthful zeal to serve his party, Santarelli had unwittingly assembled prototypes of key weapons in the future War on Drugs.

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Egil "Bud" Krogh had his work cut out for him. As public relations director for Richard Nixon's campaign for president, he faced a tricky task. Clearly the question of the day was Vietnam; the country was obsessed with it. But as a campaign issue Vietnam was a potential tarbaby. Americans were so deeply divided, and so emotional, that any position a candidate took was sure to infuriate a huge number of voters.

Instead, Krogh urged Nixon to make "law and order" the campaign's theme. It was risky, too; Barry Goldwater had tried it four years earlier. "We must protect our wives and daughters from the ravages of criminal assault," Goldwater had said, and carried only five states. But since then, Detroit and Newark and Watts had exploded and the Vietnam protests were getting wildly out of hand, dragging legions of perfectly nice kids into a frightening "counterculture" of insubordination, poor grooming and immoral sex. Bound up with all that was their strange new passion for smoking marijuana. The two seemed to go together. Speaking to a crowd in 1966, Jerry Rubin

nailed the relationship between pot and crime in a way that simultaneously horrified parents and exhilarated their offspring: "Smoking pot makes you a criminal and a revolutionary -- as soon as you take your first puff, you are an enemy of society."

Certainly crime was a better issue on which to run than Vietnam. The grim news of the Tet Offensive was still reverberating, and even some of Nixon's core constituents were starting to have doubts about the war. But none of them were out in the streets burning draft cards and smoking pot. Nixon got the point, and as the campaign came together Krogh kept in touch with a rising young Republican on the Hill named Don Santarelli. Together, Santarelli and Krogh assembled fresh FBI crime statistics, Nick Kozel's DC heroin jail report and aphorisms about the pot-hazy mayhem of the campuses and began beating them together on the anvil of the "law and order" campaign. When they finished, they handed Nixon a bright sword of inflammatory rhetoric: college students protesting the war equals rioting blacks equals rape by criminals on bail equals heroin use by convicts equals pot smoking by college students protesting the war. Nevermind the distinctions; a Nixon presidency would sweep away the social liberalism that allowed such raucous disorder in the first place and would return calm to the streets of America.

In the middle of America's longest and most divisive war, Richard Nixon rode the Krogh-Santarelli platform to the presidency with hardly a mention of Vietnam. Law and order was enough.

Problem was, the federal government at that time had no legal role in keeping the streets safe. From the Founding until Nixon, people looked to their local police to keep order in the neighborhoods. The federal government prosecuted only big crime -- the Mafia, white collar fraud, national security, civil rights, crimes that crossed state lines. But having won the election on a law and order theme, Nixon had to deliver, or at least appear to try.

One of President Nixon's first acts of office was to create the Law Enforcement Assistance Administration, granting its directorship to Don Santarelli. The LEAA, set up ostensibly to bring uniform standards of conduct to the nation's local police, ladled out massive financial assistance to police departments for everything from new squad cars to riot-control training. Departments that wanted LEAA money had to spend it the way LEAA specified. To counter increasingly unruly protest demonstrations, for example, LEAA invented SWAT teams and the riot-busting "tac squads" and provided funds so every police department could have them. By dispensing largesse rather than by executive fiat, the White House was beginning to dictate local law enforcement priorities, even in small towns.

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Keith Stroup never had to go to Vietnam. By the time he graduated Georgetown Law School in 1968, the people of his tiny hometown of Mt. Vernon, Illinois, had become so fed up with the number of native sons killed in the war that they'd shut down the local draft board and told the Pentagon to take a hike. Stroup was grateful to be protected from the draft now that his student deferment had expired. He also made a mental note of how ordinary people like the farmers of Mt. Vernon could be riled to action.

Boyish and nearsighted, Stroup has a way of generating words in his mind faster than his mouth can say them, projecting an uncontrollable excitement. He shunned private law after graduation and poured himself instead into a job at the National Commission on Product Safety, Congress's response to Ralph Nader. Part of Stroup's daily routine was to walk over to the office of Nader's Raiders and cull their mail, looking for issues for the Commission to address. He hung out there a lot, watching.

Another part of Stroup's daily routine was to smoke a joint. He'd first tasted pot at an anti-war rally and liked it for both its high and its politics. Pot was everything to Stroup that alcohol wasn't -- energizing, mind-expanding and utterly free of corporate profit. To Stroup, the 600,000 people being arrested every year for simple possession was outrageous. Watching Nader, he formulated an idea; marijuana prohibition should be fought from the platform of consumers' rights. If automobile consumers were being given a voice in automobile policy, marijuana consumers had a right to a voice in marijuana policy. The task of liberalizing pot laws seemed easy, and Stroup thought he'd be finished with it quickly. If more than half a million people were being arrested for pot, surely millions were smoking it and wanted a change in laws. The idea would grow, within two years, to the founding of the National Organization for the Reform of Marijuana Laws, or NORML.

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LEAA was a start, but in Krogh's view Nixon needed other ways to project the federal government more deeply into law enforcement and keep his reputation as a "law and order" president alive. The drugs-equals-crime campaign rhetoric had struck a chord and the PR man thought it might still have promise. The federal government already was in the drug-enforcement business, after all; its small Bureau of Narcotics and Dangerous Drugs worked alongside Customs and the FBI to bust smugglers and organized crime figures.

Even though Kozel's DC jail study specifically cautioned against drawing the conclusion that drug use causes crime, Krogh used it to do just that. At his urging, Nixon launched what he called a "war on drugs," to combat "the plague of narcotics

sweeping our streets." He created a new agency to replace BNDD and fold together its domestic-investigation functions with the international drug-busting role of the Customs Service. He called it the Drug Enforcement Administration, and Krogh saw to it DEA got plenty of coverage kicking in doors, busting sea captains and showing off the federal government's commitment to making the streets safe. Drug enforcement served Nixon another way, too; it proved a handy club with which to beat up on the messy, noisy, vaguely unAmerican counterculture so loathed by the new president and his constituency. If Nixon couldn't ban demonstrations he could inject the police into the counterculture via the drug route.

Over at the DC Department of Corrections, Kozel picked up the phone several times to register his complaints with Krogh, but he never dialed. Who was he to Krogh? They'd never met. And besides, Kozel's friends urged him to hold his tongue. He could do a lot of good as a government drug-abuse researcher, and if he wanted to advance he had better keep his mouth shut.

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Before Santarelli left Justice for the LEAA, he dusted off his preventive detention and no-knock laws. They were too harsh for the country as a whole, but maybe he could try them out in Washington, DC. Owing to its peculiar legal status, the District of Columbia is the only corner of the United States in which the federal government really does have a role in keeping the streets safe. If Santarelli could get Congress to pass his laws for DC, they would then serve as a model; passing them for the country as a whole wouldn't then be such a wrenching precedent-breaker. Santarelli's allies in Congress could say, "See how well preventive detention and no-knock works in the District?"

Santarelli and Krogh crafted a new theme for President Nixon's first address to Congress: the tragedy of a nation's capital so wracked by drug dealers and other criminals that it was unsafe for tourists. That did it; by the time Nixon signed the DC crime bill of 1970, it contained not only preventive detention and no-knock, but a whole host of ground-breaking provisions that later would be thought of as "drug war" laws, such as nighttime search warrants, wiretapping and electronic surveillance. Sidelined, Ramsey Clark called the bill "a tragic step backward."

Perhaps even more important than Santarelli's laws or the precedent of handing out drug-specific grants to local police, Richard Nixon changed the way people think about drugs, crime and the federal government in a way that made the modern War on Drugs possible. It used to mean something to "make a federal case out of it." But by giving the federal government a dramatically visible role in "making the street safe," Nixon's War on Drugs taught the country to depend on the government in Washington to solve local crime. Congress's current passion to federalize not just drug crimes but

the crime of the week -- carjacking, say, or child abuse -- is a legacy of those times. Nixon did the legal and political spadework that would make the public content, 25 years later, to send a person caught with an ounce of marijuana to federal prison for a mandatory minimum of five years.

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In 1969, 1,601 people died from all drugs -- legal and illegal -- put together. 1,824 died falling down stairs, 2,641 choked to death on food, and 29,866 died from cirrhosis of the liver.

Zero Tolerance: 1975 through 1978

Summary

Keith Stroup was impressed. He'd predicted a whitewash when the new young congressman from New York, Ed Koch, launched his Commission on Marijuana and Drug Abuse. But Koch worked hard, taking his commission to every corner of the country, interviewing not only police and "drug abuse experts" but ordinary pot smokers as well. No changes in laws came out of the commission, but it did manage to add some new terms to the national lexicon of drug politics: "recreational use," "decriminalization," and a distinction between "hard" and "soft" drugs.

NORML picked up speed. The number-two man at the Drug Enforcement Administration, John Findlater, retired and joined the NORML board. Findlater believed the business of narcotics should be protecting society from truly dangerous drugs. Marijuana, in his view, didn't make the cut; prosecuting pot smokers was a waste of time, money and effort. Together he and Stroup created a "road show," a team of doctors and lawyers that traveled to 30 state legislatures in a single year testifying on the relative harmlessness of marijuana and the damage done by its prohibition. Oregon became the first state to decriminalize small-quantity marijuana possession in 1973. Thus began the brief highwater period of drug-law liberalization.

Ten more states soon followed Oregon's lead and decriminalized the personal use of marijuana. One of candidate Jimmy Carter's speechwriters, with Stroup's help, drafted a campaign statement in favor of decriminalization. Carter decided at the last minute not to go that far, but he did venture publicly that the punishment for a drug crime shouldn't do a person more harm than the drug itself. A national consensus was forming that as a "soft" drug, marijuana deserved different treatment under the law than, say, heroin. Not even Stroup talked about liberalizing heroin laws; the country's addict population was swelling with returning combat veterans and the public could readily see a difference between their wretched state and the relatively unmarred condition of self-proclaimed marijuana smokers.

With the end of the Vietnam War and the demonstrations against it, marijuana temporarily lost its political cachet. It became, in the mid-1970s, just a substance, the harms and merits of which could be debated. The moment would prove to be fleeting.

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In the fall of 1976, Nick Kozel was on the streets a lot as a drug-abuse researcher for the Department of Health, Education and Welfare. Nine years had passed since the

DC jail study, and heroin was still the drug Kozel and his colleagues spent the most time worrying about. But cocaine, an exotic powder traditionally used by junkies to give a speedy edge to heroin's dreamy high, was starting to appear around New York and Los Angeles as a "status" drug among the rich. Its use wasn't widespread, but Kozel argued to his superiors that the Department should try to stay ahead. He convinced them to send him to a conference in La Paz, Bolivia, on the production, refining and use of cocaine.

The conference was hosted by a Bolivian psychiatrist named Niels Naya, who ran a ward for addicts in La Paz's central hospital. Naya invited Kozel to visit the ward to look at some cases of severe cocaine poisoning. Among Naya's most worrisome patients, he told the young American researcher, were about 20 men who had inflicted severe injuries upon themselves by smoking coca paste, a chemical precursor to cocaine the locals called "basuco." As much as the drug, Naya and Kozel worried about the adulterants in it. At one point in the refining of cocaine, the stuff is soaked in gasoline. The men in Naya's ward had probably inhaled burning gasoline fumes along with the cocaine, Naya said. We don't know how many have blown themselves up in the process. Kozel would remember those words two years later, when comedian Richard Pryor nearly immolated himself refining "freebased" cocaine with ether.

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Lee Dogoloff, a kindly, earnest, roly-poly fellow, was one of Jimmy Carter's rather ragtag band of drug advisors in 1977. Dogoloff, a social worker and addiction counselor by training, had been narcotics coordinator for the District of Columbia Corrections Department in 1969, soon after Nick Kozel finished the inmates survey. Then he was deputy director of Richard Nixon's Narcotics Treatment Administration, and, under Ford, coordinated federal drug policy out of the Office of Management and Budget. Dogoloff thought of himself as a sober, moderate, non-partisan kind of guy. He'd opposed the Vietnam War, but he hadn't been out in the street making a spectacle of himself. As he saw it, one of the worst legacies of that war was that a generation of parents had lost confidence in its own wisdom and authority. Youth had run riot in the sixties and early seventies protesting the war, and the war's miserable outcome had unfortunately proven them right. As Dogoloff saw it, the appropriate authority relationship between parents and children was upside down, "the line between them was blurred," and a generation of children was calling the shots. He knew several couples who were trying to be "hip" parents by smoking pot and growing their hair long and this, to Dogoloff, was a symptom of their generation's loss of control. It disgusted him.

Being one of Jimmy Carter's drug advisors wasn't a very big deal; Dogoloff's staff consisted of only ten people. The president himself was useless on the subject. Between

rumors of Hamilton Jordan snorting coke and Chip Carter's possession bust, drugs was an issue Carter could do without. Dogoloff felt exiled over in the Old Executive Office Building, searching for a way to inject some urgency into the drug debate.

The sociologists on Dogoloff's staff kept talking to him about something called "prevention." Dogoloff, trained to get addicts off drugs, didn't understand what they were talking about. How do you "prevent" drug abuse? He called a meeting of drug counselors and had them explain, but it still didn't make any sense.

Then one day a copy of the latest National High School Seniors Survey was sent up to Dogoloff's office on the fourth floor of the EOB, and he thumbed through it until his eye fell upon a chart. Dogoloff peered at it, ran his thick finger down a column and whispered, "holy shit!" Eleven percent of high school seniors responding said they were smoking marijuana every day. Eleven percent! And these were the kids still in school, dutifully answering a questionnaire. Imagine what the real numbers must be, Dogoloff thought.

Soon after reading the High School Survey, Dogoloff took a phone call from Atlanta. A man introducing himself as Buddy Gleaton said he'd started a group called PRIDE: the Parents' Resource Institute for Drug Education Inc. Gleaton was going to be in Washington and wanted to stop in. Come ahead, Dogoloff said.

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Thomas J. Gleaton was a professor of physical education at Georgia State University and a man with a mission. The aim of PRIDE, he said, was to "provide education and training for parents who want to fight back against the commercialized drug culture." By commercialized drugs Gleaton did not mean ads for Tylenol or Marlboros. Look at those Cheech and Chong movies, he told Dogoloff. Look at the way *illegal* drug use is glorified on TV and in rock and roll and in that new "9 to 5" movie. Surely you've noticed the *Seventeen* magazine ads for "Opium" perfume and eye drops that will "get the red out;" that's the red that marijuana puts there. The problem is that we're making this crazy distinction between hard and soft drugs, Gleaton argued. There's no such thing as a soft drug, he said. Drugs is drugs. Marijuana is the *gateway* drug, Gleaton told Dogoloff, introducing him to the term. In suburban Atlanta, Gleaton was trying to get towns and their schools to develop strict codes of conduct for children. Any drug use -- doesn't matter "hard" or "soft" -- and that's it, you're out of school. He called the philosophy "zero tolerance."

Gleaton leveled a long hard look at Dogoloff and delivered his pitch. "We as parents...must say to our local law enforcement officer, 'If my child, my loved one, or

my friend breaks the law by using illicit drugs, please arrest him or her."

Dogoloff snapped his fingers.

"Suddenly," he recalls, "seventeen light bulbs went off in my head. Aha! *This* is drug prevention!"

From that day, Dogoloff devoted what little power and prestige his office had to bolstering the parents' movement. The movement wasn't all about drugs -- it touched on everything from promiscuity to study habits -- but Dogoloff strove to make drugs the core issue. He traveled all over the country and every place he went he asked if there was a parents' group. If there wasn't, he encouraged parents to form one. He stayed two days in Naples, Florida -- going in August so nobody could accuse him of boondoggling -- and heard from parents who had set up a phone tree to keep an eye on each other's kids. When one parent recognized in another's child the red eyes of a doper, for example, it was the duty of that parent to call and alert the other. A few months later Dogoloff was in Thousand Oaks, California, and was amazed to find parents there were doing the same thing, completely ignorant of the effort in Naples.

"You are grassroots America, and you're responding to a terrible crisis," he told the California parents. "I think it's wonderful." Dogoloff conducted public meetings on "the drug problem," trying to get parents to see that they could "regain appropriate control of their children through the drug issue." Often somebody would stand up and ask, "How do you respond to my kid who says, 'you drink alcohol, why shouldn't I smoke pot?'" To Dogoloff, the question indicated how myopic the country had become in blurring the line between parents and their children. "There are all kinds of things I do that my 12-year-old doesn't do," Dogoloff would fire back, drawing himself up at the podium and glowering like a Pentecostal preacher. Dogoloff was so excited by the potential power of the parents' movement that he tried to get Carter to welcome a PRIDE delegation to the Rose Garden. Carter declined. But NORML leader Keith Stroup, on the circuit from statehouse to statehouse, started feeling the power of Dogoloff and the coach from Atlanta in late 1977. Every place Stroup went, a knot of local protestors showed up to shout him down. Each town had its own local group, and they all had one thing in common: the word "Parents" in the name.

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In 1977, legal and illegal drugs killed 1,333 people. Accidental electrocution killed 1,872, gun accidents took 1,982 and heart disease 961,539.

The Toke Heard 'Round the World: 1982 through 1986

Summary

Carlton Turner, Reagan's top drug advisor, understood the mandate of Reagan's landslide victory as well as anyone. What Carter avoided, Reagan must embrace. This included tackling the "drug problem," which in Turner's eyes served the Reagan agenda better than almost any other issue: it focused responsibility --and blame -- squarely on the individual, where the essential Reagan philosophy centered blame for social ills. There's nothing wrong with this country that can't be cured if people will "pull themselves up by their bootstraps," "shift for themselves," "lend a hand to a neighbor" and, in Nancy Reagan's famous slogan, Just Say No. It's hard to make the case that problems like homelessness, poverty or cancer can be solved by moral will, but drug use can be framed entirely that way. Individuals, after all, choose to take drugs, Turner told Reagan, and in 1982, an estimated half million people were doing so on a daily basis. Turner also told Reagan that Carter had made a mistake in snubbing Gleaton and the parents' movement.

The parents' movement fit Reagan's sunlit vision of "Morning in America;" parents "regaining appropriate control of their children" smacked of tradition and churchgoing and the way things used to be. At Turner's urging, Nancy Reagan threw herself into the parents' anti-drug movement with vigor, stumping nationwide for "Toughlove" and "Straight Inc." Straight even named for Nancy Reagan one of its "care centers" for adolescent "druggies." (Soon after that, Straight Inc. was successfully sued by a teenager who said he'd been held there and brutalized for weeks before escaping.)

Stern talk about drug use also played well to the rising religious Right, Turner noticed, which was generating an appetite for legislating morality. The number of daily drug users --especially young ones -- had been dropping since 1979, the White House learned, but Turner took pains to keep that quiet. Managed properly, a "drug crisis" could serve Reagan's America well.

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Reagan declared his "War on Drugs" in an address to the Justice Department in October 1982, and in the State Department's office of International Narcotics Matters, a young researcher named Jim Van Wert noticed two abrupt changes. The term "recreational" drug use in government reports was banned; no distinctions were welcome. And the focus of attention swung away from the drugs that do people the most harm, such as heroin, toward those most widely used, such as marijuana. The

idea, it seemed to Van Wert, was to make the "drug problem" as broad as possible and bring enforcement to bear on many more people.

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The search warrant is a gift of the Fourth Amendment and embodies much of what we commonly think of as freedom, standing as it does between the fragile individual and the erratic brawn of the police. As English composition, the Fourth Amendment is a clunky thing, a classic run-on sentence, oddly punctuated and archaically capitalized. It reads: "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." No prizewinner as English, it worked fairly well for almost 200 years, requiring police to convince an impartial judge that they had good reason to search a citizen's private property. It was a radical document when ratified in 1791 and remains unique on the planet in the standards it sets for police.

For most of this century, the Fourth Amendment was routinely upheld and -- under the leadership of Chief Justice Earl Warren -- even strengthened. In 1966, the Court wrote what came to be known as the "exclusionary rule:" any evidence obtained illegally by the police cannot be used in court. A year later, the Court ruled phone conversations were protected under the Fourth Amendment: wiretapping and bugging constitute a search and require a warrant because people have "an expectation of privacy" not only in their "houses, papers and effects," but also when talking on the phone. Throughout the Nixon years, the Court held fast to the Fourth Amendment, even as the first cases of Nixon's War on Drugs began to percolate up.

But by the time Ronald Reagan renewed the War on Drugs in 1982, the Supreme Court had changed dramatically. William O. Douglas, Hugo Black, Abe Fortas and Potter Stewart had given way to John Paul Stevens, William Rehnquist, Harry Blackmun and Sandra Day O'Connor. Warren Burger had taken over from Earl Warren as Chief Justice.

It was to this Court that James Reilly, a lawyer from Des Plaines, Illinois, brought a Fourth Amendment case. His clients, Sue and Lance Gates of Bloomington, had been arrested after the DEA received an anonymous tip. They would be carrying a load of marijuana when they returned from vacation in Florida, the tipster said, and drug agents searched and arrested them upon their return. Reilly convinced their trial judge - - and then both the Illinois Appellate and Supreme Courts -- that an anonymous tip isn't sufficient grounds to issue a search warrant, that for a search to be "reasonable" the source of the evidence must be presented to a judge.

The Burger Court disagreed. Rehnquist, writing for the majority, argued that holding police to respect the Fourth Amendment would be counterproductive. If standards for search warrants were set too high, Rehnquist wrote, police would simply break the law and "resort to warrantless searches" in hopes of finding evidence to justify a search warrant. Justice Byron White went further, implying in his concurring opinion that taking a short trip to Florida can be interpreted as a criminal act. "Lance Gates's flight to West Palm Beach, an area known to be a source of narcotics, the brief overnight stay in a motel, and apparent immediate return north, suggest a pattern that trained law enforcement officers have recognized as indicative of illicit drug-dealing activity," White wrote.

In the 1983-1984 session, the Burger Court dismantled many other Fourth Amendment protections previous Courts had spent years strengthening. It let police stop cars at roadblocks and search them without a warrant. It let police crack open a traveler's suitcase on the say-so of a barking dog. It permitted the use of "drug courier profiles," which are lists of such characteristics as "black with Jamaican accent" that constitute sufficient grounds to search people in airports. And it ruled that even if fenced and posted "No Trespassing," the fields, barns and outbuildings surrounding a residence are not protected by an "expectation of privacy" and may be searched without a warrant.

In a final assault on the Warren Court, the Justices during that same session undid the exclusionary rule, deciding that even if a search warrant is defective -- based on inaccurate information, for example -- prosecutors can still use the evidence, as long as the police officers acted "in good faith."

Every one of the cases in the 1983-1984 session that helped unravel the Fourth Amendment had one thing in common: they were all drug cases. The justices used lots of new language in these opinions, the kind of language previously confined to George Raft movies: words like "scourge" and "menace," like "eradicate" and "poisoning our society." They compared drug dealers to "the vampire of fable." At one point, they drew an explicit parallel between the War on Drugs and a war against "an external enemy."

Illegal drugs were "a danger so great to American society" in the eyes of the majority that it was more important to ease the legal burdens on narcotics enforcement than to protect the public from police excess. In other words, the Court was in step with a public willing to give up "some freedoms" for the sake of drug enforcement. Thanks to the War on Drugs, it is easier now than it ever has been for police to obtain a search warrant -- or not to bother at all.

Wrote William Brennan in 1984, "The Court's victory over the Fourth Amendment is complete."

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Mark Webb said thank you, good work, and hung up the phone. As US Attorney for the Western District of Arkansas, the responsibility for making the next phone call was his. He didn't relish it, but he wanted to do it before the press got wind of what had just happened in the grand jury room in Little Rock. He lifted the receiver and dialed the governor's mansion.

In a way, Roger Clinton was lucky. Indicted on federal charges of selling cocaine and conspiracy, he was ultimately sentenced to two years in prison and served 16 months. Eight years later, his big brother Bill was asked about drug policy in a televised debate while running for president and referred to Roger's case. "I don't think my brother would be alive today if it wasn't for the criminal justice system," Bill Clinton said. "I think the justice system saved his life."

It's not clear if Clinton thinks his brother's life would have been saved by ten paroleless years in a federal penitentiary, the mandatory minimum he'd have received if his case had come just three years later.

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Reagan followed his address to Congress with a series of muscular press conferences about drug abuse.

But during most of Reagan's first term, the public remained weirdly ambivalent about drugs. America was frankly enthralled by the dazzling glamour of its new drug, cocaine. The glittering white powder, so elegant and immaculate, matched nicely the country's new image of itself. Its ludicrous price placed it in the firmament of BMWs and Rolex watches; to offer was sublime. And it didn't ground you out the way sloppy drugs like heroin and marijuana did. You could toot your coke and still answer six phones at once. For a while, people even said it *helped* you answer six phones at once. As late as 1985 *Time* magazine ran a cover photo of a martini glass brimming with cocaine and the words: "The New Status Symbol?" Nancy Reagan's Just Say No campaign was largely the butt of ridicule.

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Soon after the *Time* cover with the martini glass appeared, Nick Kozel, now an epidemiology researcher at the new National Institute of Drug Abuse, got a call from his boss. NIDA's director, Bill Pollen, had interesting news from a psychological pharmacologist at UCLA, and wanted Kozel to do some checking around.

The news was that a smokable form of cocaine was showing up around the country under the street name "basuco." So far it had appeared in New York, Los Angeles, Phoenix and Miami, Pollen said.

It sounded to Kozel like what he'd seen in La Paz in 1977 but he couldn't be sure. He flew first to Miami and asked around, but came up empty handed. Then he hopped a flight to New York and on the way into Manhattan from La Guardia stopped to see a friend who worked as a counselor at the Queens Youth Treatment Program. Yeah, the friend said, I've heard of basuco. A few of the people I've been seeing lately are smoking it. They have all kinds of names for it; some call it basuco, but others call it "bazooka" and still others call it "chicle." Up in the South Bronx, he said, they call it "crack."

The next day, Kozel dropped in on another friend, Paul Goldstein, a drug abuse researcher in Manhattan. Kozel asked Goldstein to set him up with some of the streetwise heroin users he knew. They met a couple of days later at Goldstein's office -- five junkies, Goldstein and Kozel. Sure they'd heard of coca paste, the junkies said, but it wasn't very popular. Several attempts to distribute it had fallen flat. Kozel ran the street names past them, to see if they knew any more. When he came to "crack" the junkies laughed. You're mixing things up, they told him. Basuco isn't crack. Basuco is paste. Crack is little rocks of cocaine, and that stuff is everywhere. It's smokable like freebase, they told Kozel, but they cook it with water and baking soda instead of ether, so it's much easier and cheaper to make. They're selling it on the street for \$5 a hit, the junkies said. They call it crack here, but in LA they call in "rock" and in Miami, "growl."

Kozel wrote it all down, and on the plane back to DC, he frowned into his notebook. The drug abuse research community hadn't worried too much about cocaine because they thought its high price would keep the lid on it. Kozel thought of cocaine as more of a "Hollywood production" than a threat to public health. But once dealers were marketing it at \$5 a hit, anybody would be able to afford it. Particularly scary that it was appearing only in places like the South Bronx, Kozel thought. The Reagan administration was paying so little attention to the poor and the inner cities, Kozel was afraid he might soon have a disaster on his hands.

The first press stories about crack started appearing soon after Kozel's discovery, full of dire warnings that it was "instantly addictive." Stories about young executives ruining themselves on powdered cocaine were becoming popular, too; people loved to read about yups stuffing their jobs, homes and careers up their noses. Often the stories

used the terms "crack" and "cocaine" interchangeably. Drugs began getting a little more ink than usual around then, but mostly the nation's attention was elsewhere.

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One place the nation's attention was focused in the spring of 1986 was on the University of Maryland, where a 22-year-old student named Len Bias was doing all the right things to be an American hero. Handsome, smiley, with a clean-living gollygosh attitude, Bias was a classic ghetto-kid-makes-good, leonine enough on the court to have snared a fat contract with the Boston Celtics for the coming season. He was too good a story to keep on the sports pages; even people who never gave a thought to basketball knew his name and gave him his 15 minutes of public love.

On June 19, 1986, Len Bias inhaled a lungful of freebased cocaine smoke and dropped dead. Coming at another time, Bias's death might have registered only a blip on the national radar. But by now the country was ready to turn a corner. The stack of laws and Court decisions had finally grown high enough. The parents' movement was front and center with tales of kids high on pot and frosting their noses. Maybe the country -- gluttoned on arbitrage, junk-bonds and "Dynasty" -- was feeling a little hungover. Occurring when it did, the Bias tragedy sparked a volatile atmosphere of crack rumors, cocaine-burnout stories and crime-buster speeches into the hot fire of a national crusade.

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Days after Len Bias died, fifteen million people watched the CBS news documentary "48 Hours on Crack Street," the biggest single-program news audience in six years. The networks followed up the next month with 74 evening news segments about crack. Len Bias became the Archduke Ferdinand of the Total War on Drugs; within six weeks the country would be marching, bayonets fixed.

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Reagan got busy. He launched an Army combat mission against drug labs in the Bolivian jungle. He had himself and his vice president urine-tested. He took to the airwaves with Nancy to "mobilize the country against drugs." And he put together the biggest federal drug bill ever, a real prison-packer that increased mandatory sentences and banned parole for drug offenders, widened the role of the military in domestic

drug enforcement, instituted urine testing for all federal employees and narrowed the Freedom of Information Act to exclude "interference with enforcement proceedings."

Congress passed the law in one month.

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In 1986, 751 people died from opiate and narcotic poisoning and another 358 from uppers, downers and other psychoactive drugs. 1,807 died from tuberculosis, 6,738 died from ulcers and 45,779 were killed in car wrecks.

But for the next five years, Americans would consistently tell pollsters they thought drug abuse was the country's "number-one problem," that they were willing to pay higher taxes and "give up some freedoms" to stamp out drugs. The Total War on Drugs had broken out in earnest.

The Drug Exception: 1990

Summary

The rocky hills of northern Iran trembled on the morning of June 21, 1990. They started rolling. And then they tore open, the earthquake slicing this way and that, shattering the villages nestled among them, killing ten thousand people in a matter of minutes.

Half a world away, Nelson Mandela strode into Yankee Stadium wearing a blue satin training jacket and an NY cap as the crowd went wild. "Your country's love of freedom has been my inspiration," he said, only months out of prison. Downtown, Robocop II opened, offering the further adventures of the half-man-half-robot with the built-in machinegun and the monotone commands. "He's back to protect the innocent," the marquee promised.

The television in Jack Reilly's office reported it all. Reilly sat drumming his hands on his desk, struggling to concentrate on his work but jabbing the remote every few seconds to hear the news. He switched around -- CNN, C-Span, the networks -- eager for news from the nation's capital. Six years after the *Gates* Florida-vacation case, the Supreme Court was about to decide another Fourth Amendment case Reilly had argued.

The day was a cranky one in Washington, DC. The hot white sky threw tantrums of rain and thunder that spattered the streets and cooked the air to syrup. In the House of Representatives, the idea of amending the Constitution to ban flag burning heaved and died on this day, while across the Capitol the Senate let stand yet another veto by President Bush. The city and CNN, meanwhile, were transfixed by the cocaine trial of its flamboyant former mayor, Marion Barry, a 30-year veteran of the city's civil rights struggle reduced to a cartoon crackhead and "another bad role model for black youth."

Reilly hit the mute button on his remote and tried to keep his mind on his work.

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Cass Chinske positioned two old tires next to the power pole outside his home. He pulled on a pair of heavy gum boots and some rubber electrician's gloves and climbed up onto the tires. Wobbling slightly, he inspected the heavy cable that emerged from the circuit box just above eye level. He'd installed the cable himself years before, an operation as delicate as this one because of the voltage running through the circuit

box. It would have been safer then, as now, to call an electrician. But that would hardly do. The cable was illegal. Chinske was stealing power. The stolen electricity powered a bank of grow lights that nourished a small but lovingly cultivated marijuana crop in Chinske's basement. Police had busted several indoor pot growers in the area after the utility reported a surge in their electricity use. So Chinske found it safer simply to steal the juice. Safer, that is, once the potentially deadly process of connecting the cable was complete.

Now the time had come to get rid of the pot plants and disconnect his jury-rigged power supply. The cable would have to be yanked out swiftly; the slightest hesitation and -- rubber boots and tires be damned -- the voltage would course through his body and fry him like a veal chop. Chinske yelled to his dogs to stay back, took a deep breath, and wrapped his hands around the thick black cable.

He was 39, and didn't look much like a dope grower. A former National Guardsman who saw action at the Chicago Convention in 1968, Chinske retained an erect, military bearing. He was trim, balding and tightly wrapped, with a neat mustache and a steely blue-eyed gaze. A native of Wisconsin, Chinske had lived in this cedar paneled house in Missoula, Montana, since building it with his own hands 15 years earlier. He was an avid outdoorsman and spent all his spare time tramping the mountains around Missoula, growing to know the peaks and canyons as well as any native.

In 1976, Chinske had pulled off one of the great political coups in modern Montana history. He singlehandedly convinced Montana Power Company to turn over a vast area of wooded mountains just outside Missoula to the US Forest Service, which in turn protected the area as a wilderness. He became an instant environmental celebrity, and the next year was elected to the Missoula city council, where he served for six years. During that time, he and his ally, councilman Bill Boggs, won protection for the land alongside the river that runs through town and for another favorite hiking mountain nearby. Chinske was, in the words of *Pacific Northwest* magazine, an "ecohero." But he largely kept to himself, especially since his painful divorce in 1989.

Chinske never seemed to have a regular job. The city council position paid a pittance, yet Chinske had endless time to throw into his public interest work. True, he lived on little, hunting and fishing and gardening for his food. Most people assumed he did odd jobs here or there, or had a bit of money coming from his family. When *Pacific Northwest* interviewed him in 1990, he said he was supported by a "rich local person in the area who likes my work and wants it to be able to continue, but who doesn't want his name revealed." With Tom Brokaw, Huey Lewis and a host of other luminaries moving into the area, the explanation made sense.

In fact, his secret benefactor was the 20 pot plants in his basement. Chinske grew a mixture of Afghan and Thai pot in two eight-by-twelve-foot rooms in his basement,

and sold it to a single buyer in nearby Whitefish. The most he ever made was a couple of thousand dollars for a big bag of buds. His pot proceeds weren't making him rich, but help him get by without working nine to five.

Still, by 1990 the game was getting dangerous. Too many people were being busted, too many were losing their homes, too many were going to prison. Chinske told his buyer there would be no more, arranged work as a carpenter, and carefully removed all the plants. Out went the grow lights; Chinske even pulled the wires out of the walls. All that remained was to disconnect the cable from the power pole. After arranging the tires in place and pulling on his gloves, he bit his lip, closed his eyes and pulled.

And that was that. Chinske was out of the marijuana business.

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Donny Clark straightened up from the tractor he was fixing, stretched his back and took in the lush landscape of his western-Florida farm. At 55, he was looking forward to retiring, but he had no plans to leave the farm. He loved it, notwithstanding the mosquitos, the relentless humidity that rotted fenceposts and grew mildew on his workboots, even the marshy wetland on the farm's edge that seemed to encroach a few feet every year into his tomato fields.

The thought of those wetlands made him shudder. Five years earlier, facing farm debt and his children's college bills, Clark had made a stupid, greedy mistake. He'd planted marijuana seeds in floating pots and set them adrift in that wetland, figuring they'd never be found. But they were found and quickly traced to Clark. In 1985 crack was beginning to grab headlines and anti-drug fervor was heating up. But the state judge who heard Clark's case drew a distinction between marijuana and crack. Also, mandatory minimums hadn't yet taken effect in Florida, and he was able to consider Clark's spotless record in sentencing. He gave Clark a tongue-lashing from the bench and then sentenced him to a year of probation.

For Clark, the embarrassment was the worst of it. When his probation period was over he tried to forget all about it. Like Cass Chinske, he was glad he'd come away from his brush with marijuana laws relatively unscathed. Gazing at his beloved farm five years later, he breathed a sigh a relief that the whole affair was behind him.

Or so he thought.

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Between the Barry trial and the weather, there weren't many tourists waiting outside the Supreme Court for a chance to watch the justices in action. But the cavernous courtroom was packed anyway. The rows of plush maroon seats were full of lawyers waiting to hear how they'd fared in cases argued during the past few months. Papers rustled nervously but at least it was cool in the courtroom, the dozens of marble columns radiating a rich, solid chill. Among those in the visitors' gallery was Jack Reilly's friend Bill Greenhalgh, a professor at Georgetown Law School who had promised to call Reilly with the verdict.

All rose and the nine robed justices of the United States Supreme Court took their places at the bench. Rehnquist, Brennan and Kennedy read decisions involving libel, political patronage and electric utilities. Then Justice Antonin Scalia rested his half-glasses on his nose, centered a stack of notes before him and in his animated northeastern accent began reading the decision he'd penned for this session. By the time he had finished with Reilly's case, the promise of the 1983-1984 Supreme Court session was just fulfilled; the notion of a search warrant had effectively ceased to exist in the United States.

Greenhalgh phoned Reilly from the steamy phone booth across the street from the Court. No, the TV news hadn't reported it, he said. And no, he wasn't surprised, not after *Gates*. Reilly thanked Greenhalgh, hung up, and asked his secretary to put a call through to the prison at Joliet.

The decision Scalia read that hot afternoon was named *Illinois v. Rodriguez*, and the precedent it set was that police may enter a home and search it without a warrant as long as a visitor to the home -- not the owner, not a resident, just a visitor -- says it's okay. Reilly's client this time was Edward Rodriguez, an unsavory Chicago character who, during a night of bar-hopping, beat his ex-girlfriend to the point where she called the police. Not just to complain about the beating; her revenge was sweeter. She still had a key to Rodriguez' apartment, and she simply led the police there and let them in. Rodriguez was asleep in his bed. Several packages of cocaine lay beside him in a briefcase. Nevermind the assault on the girlfriend; Rodriguez was booked on the much more serious charge of "possession with intent to deliver."

Reilly cried foul and Judge James Schreier of the Chicago Circuit Court refused to let the prosecutors use the cocaine as evidence. The girlfriend didn't have the authority to let the police in without a warrant because she no longer lived there or paid rent, Schreier ruled. The search therefore was a violation of the Fourth Amendment. The Illinois Appellate Court agreed.

In reversing *Rodriguez*, Scalia latched onto the word "unreasonable" as it described searches and seizures. The search in *Rodriguez* was reasonable, he argued,

because the police had good reason to believe that Rodriguez's girlfriend, possessing a key to the apartment, lived there. She was angry, she misled the officers -- an honest mistake on their part.

"Police mistakes is what this War on Drugs is about," sighs Reilly. "Oops, I forgot to knock. Oh, well."

By the time 1990 rolled around, *Illinois v. Rodriguez* was not a major case. The networks never bothered to report it. *The New York Times* gave *Rodriguez* three paragraphs and *The Washington Post* slipped it into a Supreme Court box headlined "in other action yesterday." Because it was a Chicago case, *Rodriguez* rated a stand-alone story inside the Chicago Tribune; the Illinois attorney general called the case "an important victory in the fight against drug trafficking." No mention of the loss of protection against "unreasonable searches and seizures." *Rodriguez* was not about that. *Rodriguez* was about drugs.

"There is no drug exception to the Constitution," Thurgood Marshall wrote in the midst of the blizzard of Fourth Amendment cases. But Marshall is, as they say, history.

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"Don't be silly, Jack," Laurie Robinson said into the phone. "We'll go ahead without you."

Robinson, chief of the criminal division of the American Bar Association, had worked hard to arrange a meeting of ABA officials with Deputy Attorney General William Barr and didn't want to have to reschedule. Matters were getting way out of hand. First, Attorney General Dick Thornburgh had publicly instructed his 94 US attorneys to ignore ABA ethics rules if doing so would help them prosecute drug dealers. Then, after months of frosty memos and snide innuendos aimed at the defense bar, Thornburgh threw a verbal grenade at the ABA. Speaking to the group's annual meeting in August, Thornburgh accused defense lawyers of "hindering the War on Drugs" by vigorously defending drug offenders. Robinson immediately objected in writing, requesting a meeting with Thornburgh so she could lodge her complaint in person. Thornburgh assigned the task of receiving the ABA to his deputy.

Jack Curtain, a Boston lawyer serving as president of the ABA, was rushed to surgery for lung cancer just 10 days before the scheduled October 9 meeting. Robinson worried that postponing would mean the meeting might never happen. Curtain, though, didn't want to reschedule. He wanted to attend. Holding his arm, Robinson led the gaunt, pale Jack Curtain and a small ABA contingent into Barr's office.

Seated behind his desk, Barr didn't rise to greet them. He held his round, boyish face downward, studying the single piece of paper on his vast desktop. The ABA lawyers stood while a group of Barr aides filed into the room and took places around the long oak table. Finally, Barr looked up, said hello, and waved the ABA group to chairs.

Robinson spoke first. The ABA and the Justice Department have had their differences, she said. We objected to Ed Meese's attempt to overthrow *Miranda* and we disagree about whether witnesses should be allowed to have lawyers present when appearing before grand juries. We may not agree with each other on every point, she said, but nobody is served by having the Justice Department and the nation's lawyers at each others' throats. The rhetoric is getting downright hostile, and we need to address that.

Barr cut her off. "Listen," he said, beating a fingertip on the tabletop. "We all know the ABA is playing a shell game with the rules. We have a national crisis on our hands that this Justice Department is doing all it can to combat. As far as I'm concerned, the defense bar, and the ABA, are nothing but fellow travelers of the drug dealers."

Nobody said a word. Robinson looked at her colleagues, and then across the table at the Justice lawyers. The room was so tense and quiet she could hear Barr's antique clock ticking.

"Well," she said, sliding her papers into her briefcase. She stood up, helping Curtain to his feet. Ten minutes after arriving at Barr's office, the group from the ABA was riding the elevator back down to the street.

Apologies to None: 1991

Summary

Missoula, Montana, is Leave-It-To-Beaverland. A college town of about 70,000 nestled in the Rocky Mountains, Missoula is a place where people leave their doors unlocked, children roam unsupervised and women jog alone at night through leafy parks. The schools are good, the downtown is thriving. Overall, Missoula is a self-satisfied little town.

In addition to the beauty of its surroundings and the quality of life, Missoula prides itself on a strong sense of "community," and its mayor, Dan Kemmis, is an author of some renown on the subject. In 1991, he was getting good reviews for his new book on local control, *Community and the Politics of Place*, and had just participated in a *Harper's* magazine roundtable discussion on the responsibilities of citizenship.

Missoula is so far removed from the "drug problem" that its police have never seen a rock of crack. Yet during the summer that Kemmis's book appeared, the town was swept by a sudden wave of high-profile "task force" drug arrests. The Drug Enforcement Administration, in concert with local and county police, began busting prominent locals for growing and selling marijuana. None of the cases was very big -- 20 plants here, 60 plants there --and police never alleged the culprits were doing more than growing their own and supplying the area's aging counterculture remnant. Yet houses, cars and businesses were confiscated, and half a dozen people went to federal prison for 15 months to five years.

Whew, thought Cass Chinske, reading in *The Missoulian* about yet another pot bust. I got out of the business in the nick of time.

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Walter Terry Furr, the US attorney in Tampa, was flipping through old state cases one afternoon and came across the file of Donny Clark, the farmer who'd tried growing marijuana in floating pots. This was precisely the kind of case Furr was looking for; the Justice Department had just launched Project Trigger-Lock and Furr was eager to make an impression in Washington. Not satisfied merely to take over huge numbers of new drug cases, Justice created Trigger-Lock to comb the files of people who had already done prison time in state drug cases. Under Trigger-Lock, US attorneys were supposed to pin a federal rap on them and send them back to prison for the same crime under the new mandatory minimum sentences.

Furr had Clark arrested again and charged with federal drug crimes. "We didn't find any more plants," Furr says. "Clark was charged based on what was found in the state warrant back in 1985. The formal charge was conspiracy." Clark, in other words, was charged a second time with what a casual observer would call the same crime. For that, he was sent to the federal prison at Marianna, Florida, for the rest of his life without parole.

He is there today.

That isn't double jeopardy because Clark was charged by "different sovereigns," Florida and the United States. "The intent of Trigger-Lock," an official at Justice spokesman told me when I called to check on Clark, "is to get bad guys off the street with apologies to none."

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On April 20, Cass Chinske excused himself early from a rather dull birthday party in the posh neighborhood of Grant Creek. As he climbed out of his car at home, he could hear his dogs whining behind the fence. That was odd; they were normally quite calm.

Pasted to Chinske's front door was a federal search warrant. The door was ajar. Muddy footprints covered the hardwood floor Chinske kept so meticulously polished. Chinske followed them, and they led straight to the basement. Clearly the agents had known what they were looking for, and Chinske, chuckling, imagined their rage at finding nothing. One of them had punched a hammer through one of the sheetrock walls. He must have been furious.

Still, Chinske thought it prudent to call Bill Boggs, his former city council colleague, who practiced law in town. Then he went to bed.

* * * * *

Like almost every police department in the country, the Missoula Sheriff's Department suffered badly during the early eighties from federal budget cuts and the anti-tax revolution. Reagan had cut out General Revenue Sharing altogether, eliminating most federal aid to counties, and then Montanans voted an initiative that

froze property tax rates. For Sheriff's Captain Jerry Crego, those days had been a nightmare.

But then the Justice Department started offering big grants for drug enforcement. Missoula didn't have much of a drug problem -- a little pot, a little speed -- but hell, money was money. Crego applied, and before the eighties were over he'd added two detectives to his nine-man division and had himself a "drug squad." The county attorney did likewise, and by 1991 one of the five prosecutors in his office devoted herself full-time to drug cases.

When the DEA office in Great Falls called Crego in early 1991, the Captain was enthusiastic. The DEA had busted a pot farm in the tiny community of Polson, and in return for reduced sentences those folks had named some names in Missoula. If the county detectives came in on the investigation and made a local-federal "task force" out of it, they could have a cut of whatever assets were seized. Crego eagerly signed on.

The Snyders were busted and ratted on Marty Baker. Marty Baker was busted and ratted on Larry Lowen. Larry Lowen was busted and hauled before a federal grand jury. "Give us names," the US attorney, Bernie Hubely told him, "or we'll send you to prison for twelve years, no parole." Lowen gave them Cass Chinske's name; he said he'd built Chinske's grow room.

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Chinske woke the morning after the search of his house, steamed the warrant off the door, drank a cup of herbal tea and took his usual jog with the dogs. When he walked back in the door the phone was ringing. He tried to answer it, but the receiver had been scotch taped to the phone; Chinske hadn't noticed it the night before. Before he could remove the tape, the answering machine picked up the call. Through the speaker Chinske heard a male voice say, "Good morning, Cass. Just calling to see how you're doing, ha ha ha."

Click.

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Ever the champion of local control, Mayor Kemmis gave an interview to the local *Missoula Independent* saying he was "black with rage" at the arrests and that having federal agents swarming through town "is corrosive to the community." In the same

story, the *Independent* asked Captain Crego how he justified participating in the federal arrest of prominent locals who were doing no discernible harm to the community. "Drug enforcement," he replied, "is the only kind of police work where you get a return on your dollar."

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"Bad news, Cass," Bill Boggs said. "Lynnanne ratted you out." Boggs, was calling from Helena, where he'd sat outside the grand jury room all day.

Chinske transferred the phone to his left hand, picked up a tennis ball to squeeze, and sat down. He didn't understand.

"They didn't find anything," was all he could say.

"It doesn't seem to matter. They put her in front of the grand jury and said she was going to prison unless she told them."

"Can a wife do that? I thought...."

"Well, she's your ex-wife now. So they can use her."

"But that's all they have, right?"

"That and Larry Lowen. A jury will believe one person is lying, but not two. Also, they say they found some little holes in the sheetrock in your basement where they believe wires from the grow lights used to run."

"But no pot!" Chinske said, furiously pumping the tennis ball. "There was nothing here! When they searched me, I was no longer committing a crime!"

"Well, let's talk about it when I'm back in town. I ought to tell you now, Cass, I want to talk about a plea. And think about your house. Whose name is it in?"

* * * * *

Mayor Kemmis is still livid. As he sees it, the War on Drugs turned every local prosecutor and cop on the beat into a federal drug deputy. By taking with one hand and giving with the other, the Reagan and Bush administrations virtually bribed local police

departments like Missoula's to scare up thousands and thousands of drug cases and then channel them into federal court. The people of Missoula, he argues, wouldn't have taken away Chinske's house and sent him to prison for 15 months, the way the federal government did. When it comes to drugs, Kemmis complains, local governments no longer control their own police. The eleven states that decriminalized marijuana possession during the 1970's still have those liberal laws on the books, but now their police simply call in federal agents and make a "joint operation" out of their drug cases. So it no longer matters if a state or community decides it wants a more lenient drug policy; its police have the right, and now the incentive, to act as de-facto federal drug deputies. As Captain Crego puts it, federal drug enforcement is good business for local cops. The nation's police are hooked.

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Michael Quinlan opened *The Washington Post* in his suburban Bethesda home and almost keeled over. Quinlan had been director of the Federal Bureau of Prisons for three years, and felt like he was stuck in the narrow end of a funnel. George Bush had tripled the corps of federal prosecutors and put the word out that aggressive participation in the War on Drugs was the path to advancement. His attorney general, Dick Thornburgh, went so far as to tell his army of US attorneys to ignore the ethics rules of their local bar association if they thought those rules got in the way of vigorous drug prosecution. Federal prosecutors were now spending about a third of their time on drug cases, pouring huge numbers of people into Quinlan's prisons, which were already full to bursting.

And now this. On page one, the US attorney in Philadelphia, Michael Bailson, was quoted as saying that as part of his "get tough" program against drugs, he wanted to take over 40 drug cases a month from the state prosecutor in Philadelphia. Quinlan did some quick calculations on his desk blotter. Bailson's plan would end up costing the Bureau of Prisons \$1.2 billion a year -- or half its entire budget -- and *Bailson was only one of 94 US attorneys!* Already the Bureau of Prisons was the fastest-growing agency in government, with enough new prisons under construction to increase its capacity by 50 percent. If every federal prosecutor followed Bailson's lead, Quinlan thought, the Bureau of Prisons would have to become as big as the Defense Department. Quinlan fired off a quick memo to Deputy Attorney General Don Aire, pleading, as he had for two years, for a meeting with the heads of the federal law enforcement agencies so they could coordinate prosecutions and punishment. As usual, he received no response.

CRACKPOT: The War on (everything but) Drugs

A Note on Method

The above was a sampling of vignettes from *CRACKPOT*'s subchapters. A lot of the story of the Drug War took place in Washington, DC, and many key players still live there. I'm planning to return to DC for several more months of interviews and burrowing through the Library of Congress.

But the Drug War was waged on the streets of Miami and in the *barrrios* of Los Angeles, in the highrises of Chicago and the forests of Oregon, in the hearts of parents and on the minds of their children. I already have identified many of the characters upon whom I want to focus; those whose names I don't yet know I know by their role in the story. Once I have a complete list of characters I'll travel to where they live and spend as much time with them as it takes to get their stories and soak up the settings. So far, nobody has refused to speak with me.

I'm spending the summer reading not only "drug books" but also newspaper and magazine stories from 1968 forward, to trace how the "drug problem" and the Drug War was portrayed in the media. I'm likewise arranging to see old news broadcasts, after-school specials, and other television productions that helped promote the Drug War.

CRACKPOT will run about 120,000 words and take eighteen months to complete.