

CANADA AND SMUGGLING

OH! CANADA! POT BUSTS AT, ON (OR NEAR) THE BORDER

Don't touch my hockey bags, if you please. – Information for our Canadian brothers and sisters

Every step taken in the name of the war on drugs moves us further from that war's stated goals. The inevitable consequences of prohibition enrich the black market merchants, while a heavy price is paid by those in our society who most need help -- minorities, the poor, the desperate and the foolish. So it is with the intensifying efforts to stop marijuana from coming in from Canada. First it was Mexico, then Colombia, then Asia, now Canada. As our borders have tightened, a thriving domestic pot industry has risen to meet the demand, which, in spite of vigorous prosecution and propaganda, has remained large and relatively stable through several decades. This new cottage industry has developed not just within the United States, but also so in our more tolerant neighbor to the north. Now the established U.S. domestic growers complain: "I wish the border patrol would do a better job. These cut-rate Canadians are destroying the market." More recently the complaints have escalated: "Stop supporting Canadian terrorists; buy domestic pot." Canadian terrorists? But I digress

Consumers, of course, applaud the Canadians. Competition is the American way, and it's good for you. That's capitalism. But for those poor folks caught smuggling pot, the consequences can be devastating. And, in my experience, those consequences fall not upon those who have profited the most from this futile prohibition, but upon a lot of just plain good folks who fail in their big gamble to break out of their less than satisfactory lives. In their failure they often pay a terrible price: their freedom and their futures.

So, I respectfully offer to our brothers and sisters in Canada, their friends south of the border, and any other brave soul who is thinking about running the border, these

UGLY REALITIES: LEGAL INFORMATION FOR CANADIAN (and other) POT SMUGGLERS

My Uncle Sam would frown were I to tell you how to smuggle. The truth is, I don't really know much about it. I think, however, I am allowed to tell you of some of the many traps out there designed to capture you, if only in an attempt to persuade you to desist. Deterrence is, after all, one of the goals of law enforcement, isn't it? I've always thought so, though I did have one experience that made me wonder. I once made a proposal to a prosecutor. I suggested that if his office would pay half the cost of a full page ad in the local newspaper explaining the awesome consequences of being caught dealing drugs, I would pay for the other half. I seem to recall offering him editorial control as well, though it was a long time ago, and some of that memory has faded. We may not have reached that point in the discussion. He laughed at my proposal.

I still think it's a good idea, so here's my longer version of that full-page ad. No doubt it would have been more objective had I been able to recruit a prosecutor to join in as the final editor.

1. Running The Gauntlet -- A few of the many ways to get caught

At authorized border crossings, in simple terms, it's the eye of the inspector, the nose of the dog, and the memory of the computer. If you look funny, smell bad, have been crossing too much, or are just not lucky that day, somebody will pull you over to "secondary" inspection. At the

airport, and at other places where time allows the research, if your name has ever entered the computer for any suspicious reason, odds are Customs will pull you over.

If you are near the border, there are certain things that law enforcement will be looking for: one, two, or three males in a rental car or pickup truck, particularly at night, are almost certain to be stopped, or at least placed under surveillance. Hockey bags are considered nearly probable cause without more.

Once you are suspected, you're fish in a barrel. Without a warrant, or even a shadow of a suspicion, the police at the border can:

- Search your vehicle with a dog;

- Search your vehicle's contents including locked luggage, with a dog;

- Physically search your person, at least to the extent of having you remove your coat and shoes, and open your pants or shirt; and

Soon to come: warrantless dog sniffs of persons. Increased security in the wake of September 11 makes the odds of getting searched thoroughly even greater. Now they're even checking shoes. God help us all the first time some terrorist gets caught with a keester stash.

At remote crossings where no one could possibly observe: There may still be such places. The only ones I hear about are the ones that are now guarded by wireless remote sensors that detect persons and vehicles. Although it is difficult for the sensors to distinguish between deer and people, they find a way, often by just putting the sensors high enough that four-legged animals pass under them. Where there are sensors, there are officers standing by to respond. If you set off a sensor, it will relay to a pager in the possession of the border patrol officer who is closest. They are never far away, and they live there, so they know the area better than you do. They will then come looking for you. If you are seen by an officer who has reasonable suspicion that you crossed the border and that whatever crossed with you is still in the car (or on your person if you're walking), you may be lawfully stopped and searched. But if the chain has been interrupted – if you have stopped and let someone or something in or out of the vehicle, then that power evaporates, and then probable cause is required to search you. This, in a few words, is a summary of the complex law of border searches.

But wait! There's one more: the "Terry stop," named after one of the most important cases in the history of the definition of the "interface" between the police and the citizens they protect. When you step outside your home, you become subject to a Terry stop. Where a police officer has an "articulable" reasonable suspicion that crime is afoot, s/he has the power to stop you and ask what you're doing. Once stopped, of course, the officer will find a way to develop "probable cause" to search you, and that's it. People doing funny stuff at the or near the border will be stopped if they are seen. Period.

And then, of course, there are boats. While the law is slightly more complicated, as a practical matter, boats can be stopped, boarded and searched virtually anywhere, for any reason. In navigable waters, a Coast Guard "safety" inspection can be conducted at the whim of the officers.

Snitches: No discussion of how to get busted is complete without a discussion of snitches. Lots of folks get busted in the middle of a smuggling scam because someone fingered them. Informants are much more prevalent in the marijuana trade than in other situations since most marijuana growers are non-violent and wisely refuse to treat informers in ways that are customary if not mandatory when it comes to other crimes. This benign attitude allows some cowardly rats to make highly paid careers out of snitching. Most snitches, however, are just poor

suckers who got caught and were unable to stand up the United States Government's enormous coercive power. Uncle Sam can make you rat out your mom.

Anyone who spends much time around the criminal justice system knows that the United States has reversed its moral compass on this issue. Snitches have been universally detested throughout history. We all remember Judas. Dante reserved the innermost circle of Hell for informants. Benedict Arnold was the eponym for the lowest form of biped life in all of North America. Linda Tripp will be reviled for all of history. But today, informing is a major part of the growth industry we call the criminal justice system. It's tax-free and inflation proof. Rewards in five to six figures are common. The government buys the testimony it wants/needs with freedom, cash and who knows what else. Without informants our justice system would grind to a halt like pulp mills without trees. Any two-bit criminal who finds him/herself in trouble with the law can now trade his cage for the freedom of a harmless pot outlaw. Shamefully, there are usually no consequences. Those who snitch on pot people should be branded as traitors and banished from civilized society. In some parts of the world, thieves have their right hands cut off. This is not so much to remove their hand, but to impose a life sentence of ostracism, since in those societies, where bathing water is scarce, you eat with your right hand and wipe your ass with the other. The poor soul who has to eat with his left hand is forever doomed to eat alone.

What does this mean? It means that if you have enough brain cells to bang together to make a spark, you find someone dumber than you to carry the stuff across. It's just too risky for clever folks. But the nature of prohibition is clear: there's always someone dumb enough, or desperate enough, to take the risk. "Mule" is what the government calls them. True "mules" get a little sentencing break. Unfortunately, it is usually the mules that get busted, so, if that's you, read on. You were probably busted at random at the official border crossing, or out in the woods because someone followed your trail through the snow and then matched your boots to the prints, or because you tried to sneak over some suspicious farmer's property or creep by a remote sensor while carrying something on the first run. A dry run would have been a good idea. It's also nice if you don't stick out like a sore thumb sneaking across some remote border at two in the morning. If you were that smart you probably wouldn't have to be reading this part now. In the courts in Bellingham, Washington, they process about a half-dozen suckers like this each week. The same is true in Eastern Washington, and, as one customs officer told me, "from Maine to Blaine."

But if you haven't been busted yet, maybe you should know a bit about the American Criminal Justice System before you decide to be a mule.

2. The Consequences: The American Criminal Justice System - Compromised, Contaminated, and Corrupted.

It was, and in some places still is, one of the best and fairest on the planet. Recently, however, it has been compromised, contaminated, and corrupted by the war on drugs. Here's what it might look like if you become a customer of the criminal justice system.

State Court:

If you are lucky enough to find yourself in the state criminal justice system in state court, you aren't too bad off. You have probably not been greedy and were caught with a relatively small amount – less than 50 pounds, more or less. There are probably no records of you having made repeated border crossings. The state constitution and state due process of law still receive some respect. You may be okay.

The trial process is reasonably fair, certain acts of government lawlessness actually result in the suppression of evidence, and for quantities small enough to keep you in state court, the penalties are consistent with the offense: For first offenders in Washington State, 0 to 90 days in jail, but with the potential for an “exceptional” sentence up to 5 years if you are really bad. Fines are usually high – sometimes in excess of \$5000. Most state judges properly view this as an economic crime and treat it as such. Big fines, not much jail. But it is a felony. If you’re a Canadian, that means you can’t come back to the U.S. In the U.S. a felony is nearly an economic death senten

first-offense marijuana cases, even though you will be told that you are still “presumed innocent.” Might as well presume the moon is made of green cheese.

Any cash you want to spend for bail is subject to a “Nebbia” hearing, at which you will be required to demonstrate with clear evidence that your cash is not the fruit of a crime. If you guess wrong, they may just take the money and keep it.

The most effective bail in the federal system is the home of a relative who owns little else. The courts figure you won’t leave your parents or your children without a home. But this is rare, even for American citizens charged with drug crimes in federal court. Most offenders charged in federal court start doing their time the day they are arrested. So you spend your pretrial time in some jail or detention center. Here in Seattle we call the new place the “SeaTac Gulag.” It’s not because of the way they run the place, but because of what it’s used for. It’s well-run and really very civilized for a prison. You won’t be raped or beaten there, and the staff seems quite good, even progressive, but you won’t need your shades or your slicker. And they can be petty. Here’s one example: One Canadian client of mine can’t read without his reading glasses. They were taken from him when he was arrested. His wife went to the Marshall’s office and got his glasses. She took them to the prison and delivered them to my client’s prison counselor. The counselor refused to give them to him because he had not followed the proper procedures. He was in custody for five weeks before he could read the charges against him. (There was a form he was required to send to Canada, which, in turn had to be returned to the prison by his wife, in the same package as the glasses.) In other words, this is not a hotel you will like. Pettiness abounds.

The preliminary hearing is equally illusory. You get one unless the government has already indicted you by grand jury, which they usually will. Otherwise they actually have to give you a free feel at some of the evidence. Both the detention hearing and the preliminary hearing are your only chance short of trial to find out in any detail what the government thinks it has on you – though what you get here is precious little. If your lawyer wants to waive either of these, s/he had better have a real good reason. (There are some reasons – such as a plea offer that forecloses the government from probing into the 30 or so previous border crossings you made where you weren’t caught.)

Before we get to the sentence, -- “No, no!” said the Queen. ‘Sentence first--verdict afterwards’”¹ – let’s talk about the trial process – something that is used so rarely that even the most active Federal defense attorneys often try only two or three cases in a year. It’s because of the trial process and all of the incredibly coercive powers the feds now have. (I thought we only gave them limited powers. Where the hell did all this come from?)

Prior to the actual trial, it used to be that some folks would get off on what many mistakenly refer to as “technicalities.” As my mother used to say, “The Constitution is not a fucking technicality!!” Dismissal of a case on constitutional grounds is pretty rare these days. Think about the odds of finding a silver dollar rolling uphill against the wind. Those are your chances of throwing out evidence in Federal Court. Hitting an inside straight with three of your cards gone is a better shot. Warrantless searches conducted anywhere but in the middle of a private residence always seem to find some justification. So don’t expect to get off because the arresting officers used the Bill of Rights as toilet paper, or failed to advise you of your rights. If it helps to convict you, the evidence is probably coming in.

¹ ALICE’S ADVENTURES IN WONDERLAND, Lewis Carol.

Then there's the trial process itself. We call it "trial by ambush" because the government has no duty to disclose its witnesses, much less to make them available for interview. In some jurisdictions the prosecutors, (in Federal court, we call them United States Attorneys), will still give you a look at the evidence – possibly because they have some basic sense of fairness. But where you're caught with the goods, this doesn't matter much. You know what the evidence is against you. If you're charged with conspiracy (from the Latin verb meaning "to breathe together"), you may have a good idea who the witnesses are against you. But what lies they may tell – that often doesn't come out until shortly before the witness takes the stand to testify against you.

The government has all the advantages in federal court. Government witnesses are given huge sentence reductions, large cash payments, freedom for their loved ones -- even new identities and new lives. As recent journalism has revealed, the rush to "get on the bus" to give evidence against virtually anyone of interest to the government is a silent stampede. Every now and then a jury is offended that the testimony of a low life scum bag witness has been purchased by the government with the dearest of all currencies, but that's rare. Lies are still evidence, and in many cases, the only difference between a liar and a government witness is that one of them knows what s/he's doing.

Meanwhile, the defense attorney who tries to purchase testimony with any currency, much less that ultimate one, will be promptly suspended from practice. That's why most discussion among federal defense lawyers centers on sentencing issues and how to avoid the incredibly harsh results of the Sentencing Guidelines and the mandatory minimums. Without boggling your mind with the technicalities of this Byzantine system, its main point is that the prosecutor determines the sentence by what crime is charged, after which the judge can only evaluate categories and rubber stamp predetermined sentences. Yet here is where most of the discussion goes on. Sadly, in many cases it's a discussion of whether the sentence should be a mandatory minimum 10 years, or the slightly lesser guideline sentence of 8-1/2.

Here are some specifics regarding marijuana sentencing under federal laws: At the state level, the laws change from state to state. For information on those laws try http://www.norml.org/legal/state_laws.shtml. Under federal laws, the standards are pretty extreme: 100 plants or 100 kilos = 5 years. 1000 plants or 1000 kilos = 10 years. There are a few exceptions, such as the "safety valve," an exception to the mandatory minimums that may be used by those with little or no criminal history, no leadership role in the offense, and no guns. One way to guarantee that you won't get any breaks in the criminal justice system is to possess a firearm. . (For more details visit the chapter on sentencing at www.potbust.com.)

The only good news is that after about a year or two in U.S. custody, most Canadian citizens can transfer to Canada where they serve only a third of their time. In the U.S., under federal law, they would serve 5/6 of their sentence.

And don't look to the appellate courts for a help. Defense victories are extremely rare: our appellate courts have abandoned their role as the protector of unpopular rights. For example, the U.S. Supreme Court has recently made such legendary rulings as the following:

United States v. Ursery, 518 U.S. 267, (1996), ruling that when the government takes everything you own because you have committed a crime with it or to get it, you are not being punished.

Herrera v. Collins 506 U.S. 390 (1993), actual innocence is not grounds to review a death sentence if the defendant already had a "fair trial."

United States v. Watts, 519 U.S. 148 (1997), ruling that a defendant may be punished for conduct of which the jury acquits him.

Of course, there's a way out of this. You can cut your sentence at least in half by cooperating. This means providing the government with "substantial assistance" in the prosecution of another. You can trade your cage for someone else's. We call it a "5K" motion, after the section of the United States Sentencing Guidelines which creates it. But if you want to do that, don't read this, and don't call me.

3. What to do if caught

There are only four choices after being caught. You can cooperate (snitch) and do what the police ask you to do. You can usually make someone else pay a part of the price for your mistakes. Or else you can fight the case, or if there's nothing to fight, plead guilty, and take what comes. Or, you can start by fighting and later decide to give up and plead guilty or cooperate – or both. But, no matter which path you choose, the first step is always the same: Shut up and call a lawyer. Neither admit nor deny anything without your defense attorney at your side. This is very difficult, but so important. Everybody seems to feel a need to explain themselves to the very same officers who have them at their mercy. If you don't start to babble, expect to be bullied, terrorized, lied to and manipulated. That's what drug officers are trained to do. Unless s/he is a true professional -- and there are quite a few of them out there -- in order to succeed as a narcotics officer, s/he has to be good at coercion.

In Singapore, they have a provision for the right to counsel that is much more straightforward: You have the right to counsel if counsel would not impede the investigation. But, until you confess, counsel will impede the investigation. We have a similar system here, but it's not set out quite so clearly.

If your friends or family live in the U.S., they should expect a certain amount of bullying as part of the initial rush. Your house may be searched. Your mom's house may be searched. Your bank accounts will be frozen. Your home, your car, your boat, and maybe even your lawn mower and your socks and underwear will be seized. One client even had his collection of baseball caps stolen by the cops. Be ready to deal with this emotionally without turning into a blubbering fool. The entire system is designed with one goal in mind: to wring the most terrible testimony from defendants – testimony that destroys their friends and family. If you weren't ready for this kind of pressure, you've got no business in today's drug business. In any event, there are many pressures in the first few hours of your arrest – all directed at getting you to become an informer, or at least to make the cops' job easier. They hold out the prospect of bail, freedom for you or your loved ones, and they threaten with the loss of everything – even your children.

The sooner you call a lawyer, the sooner this torture stops. Your lawyer should know how to act swiftly to legally protect you and your friends and family from bullying, and your assets from seizure or theft. In some cases it is necessary to freeze the evidence before the government can massage it or destroy it.

Even if you want to cooperate, at the moment of the bust, you must be strong. Whether you intend to cooperate and inform, or to fight it out, you must have a lawyer immediately to begin either course. Don't play any cards until you've had a lawyer advise you. The police have heard it all a thousand times. They believe none of it. But they'll still milk you. They are trained to get you to help them through lies, trickery, false friendship – nothing is beneath them. So get a lawyer. Immediately. This is not just some lawyer's self-serving crap. Ask anyone who's been arrested. In too many cases, until your lawyer shows up, you are a victim to be bullied; a target to be threatened; a source to be exploited; a mouth to shove words into. If you

are lucky enough to be arrested by professional cops who don't stoop to this sort of thing even they will respect a courteous request to see a lawyer.

How to find a lawyer. If you've crossed the border without researching this one, you really have no business in the business. Sorry for the insult, but, what were you thinking of? You shouldn't have undertaken this mission without a phone number of a lawyer you have researched and believe to be qualified. Although wise lawyers will not take "retainers" from persons not actually in need of representation, most will talk to you and tell you what their fee would be if you're actually in need, and what terms they will accept. It costs you nothing to put that lawyer's card in your wallet or purse.

You should also know that any United State lawyer (or any person in the United States, for that matter) who takes more than \$10,000 in cash for any one case in any one year must file a "currency transaction report" with the IRS. This is not a problem if you are paying the bill from assets or credit for which you can account. I mean account – not just some jive story that the cops have heard a hundred times. "I never used banks." "I kept it in a can." So on. If you plan on having a friend show up with a suitcase full of cash that you can't explain, you will probably have to content yourself with lawyers who aren't smart enough to keep themselves out of trouble. In any event, it doesn't matter. If you're that dumb, you're probably too broke to afford a lawyer anyway. \$25,000 is not an unusual retainer for those lawyers who are familiar with the federal criminal justice system. At the state level you might get by for \$5,000 if you just want to plead guilty. But it's okay if you can't afford private counsel. The often-abused Public Defenders are among the very best lawyers anywhere. Their standards are high; their training is excellent. The sometimes higher-paid members of the "private bar" often call on them for advice. So that's a good place to start. You have to judge lawyers, their abilities, how they treat you face to face, and, perhaps more importantly, their interest in you and your marijuana case for yourself. Be neither shy nor confrontational when interviewing a lawyer. Just be clear about what you want to know. You need a lawyer because you have made a serious mistake. Don't make another by choosing hastily or foolishly. Of course, when it comes to public defenders, you rarely get to choose a second one. This means you have to make contact and communicate your needs. You have to let your assigned lawyer know you have confidence in him or her, but that you wish to take part in the decision-making process.

If you'd prefer retained counsel, some of whom have a bit more time to hold your hand, make sure you select one who knows the system, be it federal or state, and who understands how marijuana cases are different from any other criminal defense. NORML (the National Organization to Reform Marijuana Laws) is on the Web at norml.org. Their state-by-state list of lawyers is a very good place to start. Or you can call their Washington D.C. office at (202) 583-2200. If they do you a favor, send them a contribution. Another good place to look is former public defenders that have just set out in private practice. They are usually well-trained and motivated. But you may have to explain to them why it is that marijuana cases are different than all others.

Pot bust victims should approach with great suspicion any defense attorneys who advertise themselves out as "former prosecuting attorneys." Among them are some very fine lawyers who will go to the wall for their pot clients. But if they quickly tell you to plead guilty and snitch, get a second opinion -- preferably from a career defense attorney.

Picking lawyers in this legal system where the government has stacked the deck is difficult. The system isn't "fair," never has been, and probably never will be. It's not your lawyer's job to make it fair; it's your lawyer's job to get you through the unfair system with the

best possible result. An honest lawyer will tell you frankly what s/he can do for you – and what s/he can't!! A naïve or dishonest lawyer will hold out false hope to you until s/he is retained. You usually will not like what the honest lawyer tells you. If you're caught by the feds you're in big trouble. The punishments are extreme and the defenses few. The little discrepancies in the government's story are usually useless as a defense. The outrageous conduct of the government is usually not enough to even get a toe in the door. So you have to avoid being seduced by false hope. You must choose your lawyer carefully. Does s/he understand pot laws? Is s/he ready to explore the facts before telling you to race to the courthouse to cooperate or plead guilty? Does s/he have any experience in pot cases, as opposed to general criminal defense? Can s/he speak to you without shouting at you?

Even the best lawyer can't improve much on the rest of the program. If you're caught "red-handed" and the search is good, often the only significant remaining question is the sentence. Yes, it is possible to go before a jury and hope that somehow that one juror who will not convict for marijuana will sneak on to the jury. The trouble is that people like that are usually honest. The prosecutor kicks them off the jury as soon as they show their true colors. It's the ones who are there to hang you who aren't shy about concealing their motives behind the generic recitation "I can be fair." It's not like Canada, where, I understand, acquittals of clearly guilty pot people are fairly commonplace. Here in the land of the free and the home of the brave it doesn't happen.

In most cases, the price of going to trial is very high. A plea offer of 24 months can quickly turn into five or ten years if you go to trial and fail. So don't get your hopes set on winning at trial because your cause is just or you are just a virgin who made a mistake.

V. CONCLUSION

The United States government has become obsessed with marijuana. In the wake of the September 11 tragedy it has become clear that our law enforcement establishment has been allowed to appear busy stomping on ants, while rhinos come over the walls. If you don't live in the United States, you probably can't imagine the insane cruelty and misallocation of resources involved in the war on marijuana and the people who use and distribute it. Nor can you imagine the Alice in Wonderland quality of some of our criminal laws and procedures. When drugs are involved, reason and civility flee from the justice system. So don't think for a minute that because the drug war is fatally flawed, because there is nothing wrong with the responsible adult use of marijuana, because most of our allies including our Canadian neighbors have gone well down the path of intelligent tolerance, because the American public has voted overwhelmingly to make marijuana a medicine, that it's safe to bring this magnificent herb into the United States. Unless you are ready to do some serious prison time in a system that thinks weight rooms are a luxury too good for prisoners, just don't do it.

10. Appendices

APPENDIX A: A TYPICAL MARIJUANA GROW SEARCH WARRANT

COMES NOW OFFICER A. SMITH #000, being first duly sworn on oath complains and says: That on or about January 1, 2002 until present, in Silver County, Washington, a felony, to-wit:

UNLAWFUL MANUFACTURE OF A CONTROLLED SUBSTANCE (MARIJUANA)
R.C.W.

69.50.401, was committed by the act, procurement of omission of another, and that the following evidence,
to-wit:

A THERMAL HEAT IMAGE OF THE RESIDENCE LOCATED AT 1234 SOUTH MAPLE STREET LANCY, WASHINGTON, THE RESULT WHICH WILL BE EVIDENCE OF AN ATTEMPT TO COMMIT AN OFFENSE UNDER THE UNIFORM CONTROLLED SUBSTANCE ACT, IN VIOLATION OF R.C.W. 69.50.401.

That the above is necessary to the investigation and/or prosecution of the above described felony for the following reasons: As evidence of the crime of UNLAWFUL MANUFACTURE OF A CONTROLLED SUBSTANCE (MARIJUANA) R. C. W. 69.50.401

AFFIANT'S BACKGROUND AND EXPERIENCE

Your affiant has been employed by the Lancy Police Department since January 1, 1992, during that time your affiant has been involved in over (500) narcotics related arrests. Your affiant has been assigned to Pro-Tect from 1-96 to 1-02, during that time your affiant assisted in over (100) "Knock and Talks". Your affiant has also assisted with search warrants, locating evidence, logging evidence, and dismantling of grow operations. Your affiant is currently assigned to the Special Investigations Division of the Lancy Police Department and has been assigned to investigate the sale and distribution of illegal narcotics. Your affiant has completed the (80) hour DEA Basic Drug Enforcement Course. Your affiant has completed the (40) hour Introduction to Basic Drug Intelligence Analysis, Multi-agency Course sponsored by the National Drug Intelligence Center; United States Department of Justice. Your affiant has completed the (40) hour Drug Training Course sponsored by the National Institute for Drug Training. Your affiant has also received extensive in-service training in the identification and field testing of controlled substances such as Cocaine, Heroin, Marijuana, and Methamphetamine. Your affiant has also received extensive training in the methods for packaging sale, distribution, trafficking, and the use and applications of these substances.

Based upon my training, experience, and participation in these and other narcotics investigations, and based upon the knowledge derived from other experienced narcotics officers with whom your affiant is Associated, your affiant knows that:

A) That drug traffickers/manufacturers very often place assets in names other than their own to avoid detection, seizure, and forfeiture of these assets by law enforcement agencies. Very often marijuana growers do not actually live at the location where they are growing marijuana, except to possibly allow a "caretaker" to stay there for free rent, in exchange for a portion of the harvested crop;

B) That even though these assets are in other persons names, drug traffickers/manufacturers continue to use these assets and exercise dominion and control over them;

C) That drug traffickers/manufacturers maintain books, records, receipts, notes, ledgers, airline tickets, money orders, cashiers checks, correspondence, computer records, and other documents and items related to the manufacture, transportation, ordering, possession, sale, and distribution of drugs. These documents and items are often maintained at the suspect's residence;

D) That it is common for drug dealers and or manufacturers to secret contraband, proceeds of drug sales, and records of drug transactions in secure locations within their residences or in other buildings on their property, to include burying the items for ready access, and to conceal them from law enforcement authorities. If concealed off the immediate property, drug traffickers are also using storage units, vehicles, an associate's residence, and safety deposit boxes to conceal these items;

E) That drug traffickers/manufacturers commonly maintain addresses or telephone numbers of their current and past associates in the drug trafficking organization. In connection with other drug trafficking investigations, your Affiant has participated in the execution of several search warrants at the residences and/or business locations of drug traffickers/manufacturers and has frequently found notes, books, ledgers, and computer files reflecting the names, addresses and other personal identifying information of drug associates. Drug traffickers/manufacturers are also using telepaggers and cellular telephones to facilitate the sale of their illegal product;

F) That drug traffickers/manufacturers take or cause to be taken photographs or video movies of themselves, their co-conspirators, their property and assets purchased with drug proceeds which are normally kept by drug traffickers/manufacturers in their possession and or in their residences;

G) That based upon my training and experience, drug traffickers/manufacturers have in their possession (on their persons or at their residence) firearms, including but not limited to, handguns, pistols, revolvers, rifles, shotguns, machine guns, and other weapons. Said firearms are most often used and/or maintained in order to protect and secure a drug trafficker's/manufacturers person and property;

H) That drug traffickers/manufacturers usually keep paraphernalia for packaging, diluting, weighing, manufacturing, and distributing their drug. That paraphernalia includes, but is not limited to, scales, plastic bags, and diluting agents;

I) That drug traffickers/manufacturers often attempt to legitimize their profits from the sale of drugs. To accomplish these goals, drug traffickers/manufacturers utilize, for example, foreign banks, domestic banks, and their attendant services, cashier's checks money drafts, real estate, and fictitious businesses;

J) That persons involved in drug trafficking and or manufacturing often conceal in their residences quantities of drugs, large amounts of currency, financial instruments, precious metals, jewelry, and other items of value which are the proceeds of drug transactions and evidence of financial transactions, relating to obtaining, transferring, secreting, or spreading of large amounts of money made from engaging in drug trafficking/manufacturing activities;

K) That with respect to indoor marijuana cultivation and propagation operations, suspects routinely utilize the following items and methods, among others, in their attempts to avoid detection from law enforcement authorities:

blackened out or covered windows, doors or other visibly detectable areas to avoid outsiders from identifying any portion of the grow operation. Guard dogs are used to protect their growing operations from theft and to alert them to subjects, including law enforcement, who are approaching their property;

(2) fixed, movable, or other type venting systems, usually located away from detection or upon high areas of buildings to vent heat and odors escaping the cultivation structure;

(3) fictitious names on utility records and/or fictitious business names associated with the suspect's property;

(4) the alteration of the electrical system on the property by bypassing the utility meter, so that the excess usage of power caused by the indoor lighting equipment does not register with the utility company;

(5) the use of deodorizers to mask the odor of growing marijuana that is emitted from the venting system;

(6) remote locations and buildings which are detached from the main residence to prevent discovery. This may also include rooms built underground to house the growing operation;

(7) subjects wanting to purchase narcotics from drug traffickers/manufacturers often make quick stops at the residence where they are acquiring their illicit drug. Your Affiant also knows that these persons, their vehicles, and their associates often carry or contain illicit narcotics, drug paraphernalia, proceeds of narcotics, weapons, pagers, cellular telephones and documents recording their illicit drug transactions with the suspect of the case. The above-mentioned items carried by these "visitors" are thus, evidence in the case under investigation and necessary to show the court the extent of the drug enterprise and drug trafficking;

(8) narcotics traffickers and manufacturers commonly sell and/or possess more than one type of narcotic or illegal drug so that they can better fulfill their client's needs. By diversifying, they can reap a larger profit;

(9) narcotics traffickers and manufacturers usually have stolen property in their possession that they have taken in trade for narcotics. This stolen property is actually proceeds from the narcotics business. The narcotics dealers and manufacturers will then either keep the stolen property for personal use, or exchange the stolen property to their associates for other types of narcotics or services rendered. By using this system, the dealers and manufacturers have bypassed the Pawn Shops, who are now closely monitored and controlled by law enforcement with a very regulated reporting procedure mandated by Washington law. This system of barter is especially true with marijuana growing operations since the narcotic is locally produced with a low overhead cost to the manufacturer; and

(10) State and Federal courts have recognized that unexplained wealth is probative evidence of crimes motivated by greed, in particular, trafficking in controlled substances;

That marijuana cultivation is a complex enterprise that:

(1) takes at least 7-10 days to take the plant from a clone to the vegetative stage, takes at least 6-8 weeks to take the plant from the vegetative to the flowering stage, and takes at least 4-6 weeks to take the plant from the flowering stage to harvest;

takes approximately three gallons of potting soil per plant and that the soil is used only once and then discarded;

if hydroponically grown, no soil is required. This method would require a root medium and large quantities of water and water-soluble fertilizer. The root medium most commonly found are rock wool, large size gravel, lava rock, to name a few;

uses high intensity halide or high pressure sodium lights that require large amounts of power and emit a very bright white light and a high amount of heat. The heat from these halide lights often cause a visible difference in the moisture collecting on the roof of the structure in which the grow is located.

the odor associated with growing marijuana has been compared to an odor which is a "skunk" or a "pungent sweet musty" like smell.