

DESIGNER DRUGS

Where we are, and where we are going

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This presentation is a review of the present state of the war on drugs in the United States today, from the legal and judicial viewpoints, as well as the degree of compromise of individual freedoms and rights that it has demanded. There is also presented a speculative view of changes that may be anticipated, based on legal changes that are currently being proposed.

The Controlled Substances Act has been extensively modified by amendment over the last several years. An emergency scheduling Act has allowed the placement of new drugs under legal control without prior hearings and discussion. Sentencing guidelines now exist that give a formula for determining the penalties for drug-related criminal behaviour, that are based on the amount and the identity of the drug in question, and which exclude any judicial input. An analogue amendment allows the imposition of all the penalties applicable to a Schedule I drug for any involvement with any chemical that resembles a controlled drug in either activity or structure, if it is intended for human use.

In the area of criteria for the establishment of guilt, a pattern is being seen more and more frequently of bringing civil charges against seizable property rather than criminal charges against individuals, thus allowing the more lenient "preponderance of evidence" concept to replace "beyond reasonable doubt". In the area of personal freedoms and rights, both personal privacy and the historic tradition of the assumption of innocence have been sorely eroded by an ever-broadening demand for urine tests on a random basis, as a proof of not having used an illegal drug.

What changes may come in the near future are best illustrated by the many proposals currently under consideration by Congress as possible components of this year's legislative amendment package in the anti-drug war. There are proposals for the establishment of prison colonies for the drug offender, for requiring him to pay the costs of his trial, the costs of his incarceration, and pay an additional fine of 10% of all of his future

earnings. There are proposals for an extensive broadening of the random urine test concept, into the local school systems and into private industry. And, most frightening, there is a proposed legal statement of a national emergency, which could allow the presidential invocation of martial law if that were felt to be needed in the fight against illegal drug use.

As the war on drugs is believed to be unwinnable by an ever-increasing number of people, the continuing loss of rights and freedoms are ineffective weapons. A need of a broad restructuring of our drug laws must be openly discussed and carefully studied. Some legal control must be maintained, in areas of public safety and protection, but the directions that are being taken, increased penalty and behaviour control, are not compatible with our self-image as a constitutional republic.