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# MUSCLE

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# STEROIDS

A close-up photograph of a man with a thick brown mustache and dark hair, looking through vertical wooden prison bars. His eyes are closed, and his expression is one of strain or discomfort. The lighting is dramatic, with strong highlights and deep shadows.

AND  
**The**  
**LAW**

# U.S. Attorney Tells his Side



**Phil Halpern**

Phil Halpern is the steroid smuggler's worst nightmare. He is what Batman is to the Joker, what Superman is to Lex Luthor, and what mouthwash is to bad breath. You know that old Jim Croce' song? The one that has the line, "you don't tug on Superman's cape"? Well,

make this revision to it: "You don't spit into the wind, you don't pull the mask off the old Lone Ranger, and you don't mess around with Phil."

Who is this guy, some super cop? Nahhh. Just ask Dan Duchaine who he is, or Tony Fitton, or Dave Jenkins--three guys who Phil Halpern once sent to the big house to serve out prison sentences for steroid-related charges. They'd tell you that he's the Assistant U.S. Attorney who has prosecuted more steroid cases than anyone in the country. He's also one sharp guy.

Phil Halpern grew up back East and went to Hamilton College in upstate New York to work on his undergraduate degree. While there, he was involved in a number of sports, including ice hockey, soccer, and lacrosse. After that, he went to Rutgers' University, one of the top law schools in the country, where he also found time to play on a semi-pro soccer team. He earned his degree and spent a year clerking for an appellate court judge before going to Cambridge University in England in 1979 to work on a Master's degree in Criminology. He also joined the cross-country team, and it was there that he first heard about steroids. Although he didn't use them, he became aware of their existence, and he learned how some athletes used them to improve athletic performance. Like any good lawyer-to-be, he filed the information away for possible future use.

After Cambridge, Halpern became an Assistant District Attorney in Hudson County, near New York City. He handled felonies, robberies, murders, you know, all the juicy stuff. He served there until 1984, when he came out to Southern California and became an Assistant U.S. Attorney. He now became a real heavy hitter. Instead of handling county cases, he handled federal cases. During what he considered to be an apprenticeship period, he became assigned to three rather interesting cases. One had

to do with a crime ring that was stealing F-14 fighter weaponry off U.S. Naval aircraft carriers and selling them, through a network, to Iran. The next had to do with a mother and son who had offed grandma with a cross-bow, of all things, cut her into little pieces, and stuck parts of her into a Coleman cooler, all in order to steal her social security checks. "I kind of enjoyed that one," said Phil, tongue-in-cheek (at least I hope it was tongue-in-cheek).

The third case was particularly relevant, at least to the future of steroid use and abuse in this country. "I got a call from a border inspector at the Tecate port of entry [between Mexico and the U.S.]" recalls Phil. "The guy told me that they seized this vehicle and were holding this guy for smuggling some sort of prescription drugs. They told me that they called the D.E.A. and found out that the drugs weren't controlled substances, and they wanted to let the guy go. I said, 'Well, what kind of stuff was he smuggling?' So the agent started reading these labels, and I heard something like this: 'Tes-trone, some Tes-trone Kyponate, and some Anadrool,' and on and on."

Well, this all rung a bell in Phil Halpern's memory. He remembered hearing about some of those very same drugs when engaged in athletics at Cambridge, and he realized that this smuggler had an absolutely huge amount of steroids down at the border. What did Phil Halpern tell the inspectors to do? "I told them to throw the guy in jail." That turned out to be the first time anybody had ever prosecuted a federal steroid case. "I don't want to pat myself on the back for being a great prosecutor, but like so many things, I just happened to be the right guy, in the right place, at the right time. Realistically, it was simply a matter of my possessing a small amount of knowledge of the drugs," explained Phil.

*Muscle Media 2000* has interviewed ex-steroid smugglers before, but we wanted to examine the other side of the coin by talking to Phil Halpern. We caught up with Phil in his San Diego, California office, and we found him to be outgoing, cooperative, cheerful, and downright charming--not at all the stereotypical, Armani-suit wearing guy that the majority of the public loves to hate.

Does Phil Halpern have some sort of private vendetta against steroids? Is he committed to rubbing out the existence of steroids in the United States? Hardly. You'll be surprised at some of his answers on the following pages.

**INTERVIEW BY T.C. LUOMA**



Steve Douglas

**MM - How is it that you get assigned to do a lot of these cases. Do different U.S. assistant attorneys specialize in different areas?**

**PH -** Absolutely. That's exactly how I came to be involved with prosecuting steroid dealers. Once I gained a little expertise, due to my interest in the subject and the location of this office [right on the Mexican border], I started receiving a number of steroid cases. In fact, my experience with steroids proves an old adage--two things are necessary for a person to become an expert: (1) you need to do something *once*; and (2) you need to have somebody *call* you an expert. That's what happened in my case. I handled one steroid smuggling case, and somebody came along and said, "Oh, he must be an expert!" Once that occurred, all the agents started bringing me steroid prosecutions. As a result, by 1989, I was probably handling or supervising approximately 90% of all federal steroid cases in the United States. It just started snowballing, and once I started doing them, I began to understand the law. I began to understand the necessary procedures, and other prosecutors began to call up with similar questions that they were facing.

**MM - Tell us about your first case.**

**PH -** It was a real eye-opener. In 1984, I remember going down to Magistrate's Court to arraign a couple of steroid smugglers. By the names on the complaint, I could see that one was a male and the other a female. As I recall, it

was a Monday morning and the smugglers had spent the weekend in jail. As was typical following a busy weekend, there were about 30 defendants waiting to be arraigned. About 95% appeared to have been Hispanics who were arrested for smuggling dope or who were illegal aliens. All in all, it appeared that there were about 25 guys averaging 5'7" and 130 pounds. In stark contrast, I observed one defendant who was wall-to-wall muscle and tipped the scales somewhere in the neighborhood of 250 pounds. Well, it didn't take a rocket scientist to figure out who the guy being arraigned on steroid charges was. However, I recall thinking, "Where's the female smuggler?" After scanning the gallery one last time, I concluded that they must be keeping her [as they sometimes do with women] in the holding area outside the court. When they finally called the case, two people rose. Alongside the big guy stood another muscular, somewhat scruffy looking white "guy"--it turned out to be the *female* defendant. I was floored. She'd been in jail over the weekend where she couldn't shave, and as a result, her beard was heavier than half the men's in court. It was my first real exposure to a women who had been taking massive doses of steroids, and I couldn't tell that she was a female. Back then, while I had heard of anabolic steroids, I didn't have any idea of their potential effects and did not understand their androgenic component. Who knows what she was really taking or what it did to her? That began my experience prosecuting steroid cases.

**MM - How were the laws different when you first started prosecuting these cases, as compared to now?**

**PH -** It was an entirely different ball game. Most significant steroids were not controlled substances, and their mere possession was not a federal felony. Although that's the main difference, Congress has been making other minor changes over the years. These changes were almost uniformly designed to make steroid prosecution simpler.

**MM - So what laws was that first guy you prosecuted breaking?**

**PH -** What laws *wasn't* he breaking? That fellow happened to be a fairly notorious guy in the steroid world. I don't mean that in a bad way, I simply mean that he has achieved a certain notoriety as a result of his trafficking in steroids on an international basis. His name is Tony Fitton, and he never struck me as a particularly bad guy. Indeed, I don't have anything personal against any of the guys in this business, never have. Fitton was simply violating many of the laws that I was charged with enforcing. As a result, I pursued him for several years until he eventually plead guilty to smuggling anabolic steroids. Rather than declaring the steroids at the border where they would have been confiscated, he secreted them in his vehicle. This is quite common with steroid smugglers who attempt to hide the drugs in tires, wheel wells, fake gas tanks, false compartments, and whatever. If you don't declare the drugs, that's smuggling in violation of Title 18, United States Code, Section 545. In addition, Fitton pled guilty to the unlawful introduction of a prescription drug in interstate commerce in violation of Federal Food and Drug laws as well as a tax charge based on his failure to declare his illegal income. While there are numerous other federal statutes in the Government's arsenal, those were the three that I used in that first case. That was my start. It's funny; even though most people associate my practice with steroids, they really comprise a relatively small portion of the cases that I handle.

**MM - What's the typical profile of the guy who gets busted carrying stuff over the border? Are they always bodybuilders? Are they young, old, whatever?**

**PH -** Interestingly, in the beginning the typical steroid smuggler was almost always into bodybuilding or weightlifting.

People like Tony Fitton, a world class lifter, definitely fit the profile. Since then, many of the smugglers have wised up. A number have utilized their girlfriends or so-called "pencil necks" as "mules." However, as they adapt so does law enforcement. Yet, there's no question that the typical profile is still fairly accurate. I mean, in terms of who you would suspect. You can still go down to the border and find a steroid smuggler wearing a Gold's Gym tank-top T-shirt with shorts who has bulging shaved arms and legs.

**MM - Are they that stupid, still?**

**PH -** Yeah! No question about it. It's not that I'm a good prosecutor; it's that they're bad crooks (both of us laughing). But like most generalizations, they can be somewhat misleading. I've busted a lot of organizations that use slightly built Mexicans to do their smuggling. They adopt this practice exactly because they believe they stand a better chance of fooling the Government inspectors. However, the majority of people who are apprehended for smuggling steroids and other performance enhancing drugs are weightlifters and athletes from this part of the country. Frequently, you find one guy who has driven down to Mexico looking for a suitcase of steroids to sell to a bunch of his buddies. Yeah, they can be that stupid, but maybe it's just that these are the ones we usually catch. On the other hand, we do also find petite blondes—who clearly have not been using steroids—roped into the smuggling game. In this regard, steroid smugglers are no different from heroin and cocaine smugglers. In this deadly game, the smugglers get their friends, their associates, and even their *families* to take the risks for them. Steroid dealers are no different in that respect.

**MM - Can you think of a particular instance when somebody tried to smuggle something in a particularly stupid way?**

**PH -** I've seen instances when women have had vials and syringes sticking out of their bras. Bodybuilders have tried to hide cases by simply sticking them under the seats of their cars, or inside their trunks. It's hard to believe some people can be that stupid. But you name it, I've seen people try it. There have been ingenious ways also. I've busted people who have had sophisticated false compartments built into their cars with electronic con-

trols. I've busted a whole ring that used to ride them in on motor-cross bikes and dune buggies across the border between Arizona and El Centro. That proved to be an interesting case. I've even had people smuggle them into this country using yachts.

**MM - You're familiar with Dan Duchaine's book, *The Underground Steroid Handbook*. Have you seen what he says about you in it? Here, let me read it: (regarding smuggling steroids out of Mexico) "You will probably be prosecuted by Philip Halpern who is not only excellent at getting steroid convictions but enjoys the challenge. Halpern is an outstanding trial attorney and no lawyer working for steroid-related defendants I've seen has matched his vigor and can-niness. Halpern has made my life miserable for two years (so far), but I have a somewhat grudging admiration for the man; he's a fighter and good one. Don't f--- with him."**

**PH -** I find it amusing. It's not the words I would have chosen to pay tribute to my ability, mind you, but all in all, Dan is an entertaining guy. Speaking of Dan, I think I may have been the first to refer

to him as the "Steroid Guru" [in a press release]. It's been so long I can't remember if I coined the term or simply repeated it. In any event, it's clear that Dan and I go back a long way. Although I don't often agree with him, I'll say this, I respect Dan in the sense that he has always admitted what he is. In that sense, he has always been existential--if you understand my meaning--in his approach to the use of steroids. In other words, he's not saying, "I'm not a crook," and "this is not illegal." Rather, he's always maintained, even when it has clearly not been in his best interest, that he, "doesn't think steroid use *should* be illegal," and he'll say, "Okay, I disagree with the law, but you got me, you prosecuted me, just play by the rules and do it, and I'll do my time." While I do not share his interpretation of the law, I do respect the rest of his approach. In this country, people are entitled to disagree; they are just not entitled to believe they can violate the law with impunity. Besides, I'm not here to change Dan's mind and say his beliefs about the law are wrong. I mean, Henry David Thoreau disagreed with some laws. Dan, at least, never denied that the conse-

quences of his disagreement might result in lengthy jail terms. He rec-

**"Halpern has made my life miserable for two years (so far), but I have a somewhat grudging admiration for the man; he's a fighter and good one. Don't f--- with him."**

**- Dan Duchaine**





ognized that, and he wasn't squirrely about it and did not try to deny it. I think most prosecutors have respect for somebody like that--not to say we think it's right by any means. I would be one of the last people to say that his view is right. But I would be one of the first to say that he took his medicine like a man.

**MM - Let me read you part of a transcript from a steroid case prosecuted in San Diego a short time ago that you were not part of. Here's what the judge told the court: "I am well aware of the, I think, background of which these laws [steroid laws] came to be passed. There is a lot of evidence out there from which any reasonable person would conclude that the reason steroids are against the law is because it is in the financial interests of a number of supplement manufacturers, the Weiders for one, that they be illegal." What do you think of what the judge said?**

**PH -** Frankly, I don't understand what the judge is saying. I would have to see it in context. On its face, though, it doesn't appear to make much sense to me. I don't know if the steroid laws are against Weider's interests or not, but I don't think that the changes in the federal laws governing steroid prosecutions are a direct result of financial considerations of any type. It appears fairly obvious that the increasing penalties for steroid dealers have resulted from the general outcry regarding the serious, perhaps deadly, side-effects these drugs may pose to the unwary consumer as well as the spread of these drugs to younger users, such as high-school students. Similarly, the reason that there are laws against marijuana and cocaine--although I don't mean for one second to equate the use of anabolic steroids with other narcotic substances, except in this very limited manner--do not

appear to have anything to do with financial reasons in any but the broadest sense. The same with steroids. There are a variety of complex reasons to control any drug, and to say that the main rationale is simply financial would not appear to be accurate.

**MM - Then what is the reason? How do you view the problem personally? Do you think it's a serious problem for society, or do you believe, as many bodybuilders believe, that they should be legalized?**

**PH -** My personal view is not really important, but I'll tell you that I don't even do steroid cases anymore--unless it's an unusual case. For instance, I just handled a case where the defendant was trafficking in steroids and cocaine. I handled it because of the allegation that the defendant, a guy by the name of Pelletier, had a corrupt federal agent on his payroll--allowing him to smuggle the drugs into the United States from Mexico. Because of the corruption angle, I agreed to handle the case. It turns out he didn't have a corrupt agent--that was just "puffing" on his part, but I stayed on the case. After I apprehended him and his wife, he ended up committing suicide in jail. But as I've said, it's only an unusual steroid case that I would now handle. In fact, in many respects I feel the job of educating the public that we set out to do almost a decade ago is done. I'm very pleased about that. Never did I, in my wildest imaginings believe that "I've got to wipe out steroids in the United States." When I first tackled the task, I thought steroids were a major hidden time bomb. In 1984, the general public did not even know steroids existed. There were many kids being given steroids in high school and college who had absolutely no understanding of the dangers involved. There

were even parents urging their kids to take steroids without an understanding of the risks they presented. There were people in law enforcement, education, and social services that didn't even recognize that there was a problem out there. These were things that needed to be changed when I handled my first steroid case.

**MM - But has all that changed?**

**PH -** Maybe I'm naive, but I believe it has really changed. I think that the law enforcement effort has helped--and if I've done anything--I think it was to bring to the attention of the public the dangers inherent in the use of steroids. Coupled with this educational component, law enforcement has made it clear to the people who traffic in steroids--again I happen to have never prosecuted users and never had any interest in doing that under the old steroid statutes--that there were potential stiff criminal penalties that would be attached. At this point, I think both of those goals have been attained. First, I think people who traffic in steroids now know that they run the risk of going to jail. Second, as important, or perhaps more important, all the parents out there know that if their kid's in high school and he's taking steroids, this poses serious problems. Moreover, I think the recreational steroid gym rat now recognizes that there's a big down side to their use as well. Let's face it, I may never be able to stop the professional bodybuilder or the professional athlete from taking steroids. When athletes get to a certain level, they may be willing to take greater risks in order to win. Maybe not all athletes, maybe athletes like Edwin Moses don't have to do it, but certainly a large segment of "high-end" athletes may be willing to take those risks. However, I've never thought it was my job to stop them. That's

up to the I.O.C. [International Olympic Committee], bodybuilding organizations, and professional leagues to set up realistic year-round drug-testing programs and police their own sports--mine is to simply enforce the law.

**MM - Let me ask you this. If the public is aware now, how is it that no eyebrows are raised when a baseball player comes back from the off-season 20 pounds heavier with a smaller waist and starts hitting a ton of home runs, and the average lineman weighs about 285 now, as opposed to 225 about 15 years ago?**

**PH -** Well, your guess is as good as mine. Perhaps, the public simply wants to suspend belief. As you know, sports sometime seem to be America's life blood--almost more important than politics to the average citizen. Why do you get more ink on a steroid case than a major corruption case--maybe it's the nature of our society to not want our heroes tarnished. People don't want to think that Mickey Mantle drank during his playing days; why should they want to believe that some muscular ball players might be doing steroids? Don't get me wrong, I have absolutely no idea if any ball players are actually using performance-enhancing drugs, but I also recognize that people may not want to believe such allegations about their heroes even if they are true.

**MM - Was there any one particular case that publicized the problem more than any other?**

**PH -** If there were, it was most likely the [David] Jenkins' case. Working hand-in-hand with Denny Degan [the FDA National Steroid Coordinator], I indicted Jenkins and about 35 other people around 1987. That case got a lot of nation-wide attention because it highlighted a two to four hundred million dollar nation-wide black market in steroids. It also didn't hurt that Jenkins was a British Olympic silver medalist. After we publicized what was happening in this huge black market, a series of articles were published in the *New York Times* and other magazines that highlighted the issues. Right after that, we got the biggest break as far as I'm

concerned--Ben Johnson was stripped of his Olympic gold medal. The Jenkins prosecution, plus Ben Johnson's downfall, put steroids squarely in the public eye. By the end of 1990, you could walk down the street and say, "anabolic steroids," and instead of going 0 for 100, you'd be almost 100 for 100 in terms of people recognizing what anabolic steroids were and what some of the risks involved in their use were.

**MM - What happens to someone who gets busted for steroids? What's the legal process?**

**PH -** Well, the process is different--depending on whether it's state or federal. However, typically when there's a steroid bust, you end up sitting in jail. You might end up in jail over the weekend without any chance of getting out. If you're lucky, you will eventually be stuck in a federal penitentiary. If you're unlucky, you may find yourself in a state penitentiary or a state-holding facility like Riker's Island in New York. Take my word for it, these

can be scary places. There are a lot of people in there you would not want to invite over to your house for dinner. These facilities may be very cruel, tough, and hard places. Certainly, you may be worried about more than simply a potential jail sentence. Just getting to the point when you can make bail may become vital. Jails should not be mistaken for country clubs. There are also the financial fears. In the area of steroid prosecutions, there are broad federal forfeiture powers that may be exercised. Individuals trafficking in steroids may have to face all their funds being taken away--their cars, their houses, even their businesses. If you used your car to carry testosterone across the border, that car could be gone. During my last case, I ended up seizing a Ferrari. I know of cases when we've taken gyms away from people. Your readers should recognize if they're using a gym to promote the sale of steroids, they may end up losing it. Even if you don't lose your business, you may end up spending tens or even hundreds of thousands of dollars defending yourself and facing additional inquiries from the Internal Revenue Service.

**"Individuals trafficking in steroids may have to face all their funds being taken away--their cars, their houses, even their businesses."**



**MM - What about prison terms? What's the stiffest term a person can get?**

**PH** - The stiffest one I've gotten (for an offender), in actual time served, is six and a half years. Let me tell you, that's a long time to spend in jail. A really long time.

**MM - What's the average prison term?**

**PH** - It varies depending on the money you make, the sophistication of your operation, the use of violence or weapons, the amount you distribute, and a wide variety of other factors. In the Federal system, all sentencing is done pursuant to sentencing guidelines. Interestingly, under the guidelines there's now probably much less chance of getting probation. In fact, if your criminal activity rises beyond a certain guideline level, you most likely will not be eligible for probation. Therefore, no matter how good a defendant's lawyer may be or how impressive his past conduct may have been, he may end up in the slammer.

**MM - So there are differences between smuggling them, selling them, and using them?**

**PH** - Oh absolutely. Smuggling is illegally bringing steroids into the country. Selling is the illegal distribution of steroids in interstate commerce. Most importantly, under the present law, the mere possession (without a prescription) of anabolic steroids is a violation of the Federal Controlled Substances Act. Furthermore, there are a whole different host of laws if you are selling or manufacturing counterfeit steroids. Depending on your exact conduct, you run different risks. While I think we've done a lot towards cleaning up the counterfeit black market, there's still a huge problem. However, at one time, I felt that the majority of the black market was counterfeit. Since then, we've managed to close down the major Mexican clandestine lab.

**MM - What percentage of cases involve counterfeit steroids?**

**PH** - It's hard to say at the present. At one time probably 50 percent of the market may have been counterfeit. Now, who knows? As we say in the legal trade, Caveat emptor: let the buyer beware.

**MM - Is someone who sells steroids viewed the same way as someone who sells cocaine?**

**PH** - Yes, under the current statutes. The

potential penalties may be slightly less when dealing with steroids, but the laws are absolutely the same. You're now prosecuted under the same statutes. They're both under the Controlled Substances Act. There are different schedules [D.E.A. classifications], but it's the same exact law, and it's now principally prosecuted by the Drug Enforcement Administration, the D.E.A. Steroid violations are no longer the exclusive province of the F.D.A.--they're now handled by the D.E.A., F.B.I., Customs, and the U.S. Postal Service. I mean, in Dan Duchaine's early days, it was the F.D.A. coming after him, but during his last prosecution, the F.B.I. was also on the scene. So your readers should be aware that there are now different players in the game.

**MM - How do most guys get caught? What are the red flags that law-enforcement agencies look for?**

**PH** - In any kind of prosecution, there are always a variety of different law enforcement techniques that can be utilized. Obviously, I'm not willing to let potential violators in on the investigative strategies that are adopted in apprehending steroid traffickers. However, it won't be giving away any secrets to say that we may use tips gathered from informants. Somebody gets arrested, you say, "Where did you buy it?" and they tell you. It may be that simple. However, it can also be incredibly sophisticated involving the use of scores of agents, computers, and lots of leg work.

**MM - Are there different penalties for different kinds of steroids, or does it matter?**

**PH** - No, all steroids are under one particular schedule of the Controlled Substances Act. There are, however, different penalties for human growth hormone (HGH), other performance enhancing drugs like GHB, and clenbuterol. But I would emphasize again, quantity is more important than the type of steroid. The larger the quantity or amount of money, the greater the penalty.

**MM - So is growth hormone in the same classification as clenbuterol?**

**PH** - Yes. It would be prosecuted as a violation of the Federal Food and Drug Act. If it were smuggled, it might also be handled as a Customs offense. Your readers might also be interested to know that the D.E.A. has recently been empowered to investigate HGH diversion.

**MM - Are you starting to handle more HGH and clenbuterol cases lately?**

**PH** - I handled the first Federal human growth hormone case several years ago, and since then I've handled a few others. Those types of cases are rare mostly because human growth hormone is rare. However, it is true that we've seen an increase. About the time steroid testing in athletes increased, we started to see an increase in human growth hormone.

**MM - How about clenbuterol? That seems to be really hot right now.**

**PH** - Yeah, clenbuterol is the hot drug, no question about it. We're seeing more cases, and we're aware of the increase. People trafficking in clenbuterol might be interested to know that.

**MM - Where is it coming from?**

**PH** - A lot of it's from Mexico. It goes under the name *Spiropent*, I think. However, it is also smuggled in from Europe and Australia.

**MM - What would you say is the biggest operation you ever busted, dollar wise?**

**PH** - No question--The Laboratories Milano operation out of Mexico. In fact, it was clearly the largest ever busted by the Government. At the time we stopped the operation, it was responsible for dumping tens of millions of dollars of counterfeit steroids on the American black-market.

**MM - How do you go about busting a steroid operation in a different country?**

**PH** - It's not easy. Either you need to obtain the cooperation of law enforcement officials on the other side of the border, or you have to succeed in luring the principals into the United States. Once they're in this country, it's much easier to arrest them. In rare cases, if the operation has facilities in the United States, we may be able to obtain jurisdiction. This is possible because a lot of these operations find it difficult to operate out of other countries. In these instances, they may have plants, warehouses, or distribution networks in the United States that can be attacked. ▲

**EDITOR'S NOTE:** *If you're involved with anabolic steroids on any level, you should never forget that you are running the risk of losing your freedom. Regardless of whether the United States' new steroid laws are justified or not, they are here to stay. Just don't say we didn't warn you.*