

[The man appointed by President Bush to head the Drug Enforcement Administration has been an ally of the CIA and drug smugglers in the past. His true job may be to manage the drug trade so that the profits remain in the pockets of the CIA and Wall Street. Here, veteran Arkansas journalist Mara Leveritt tells you the hidden history of Asa Hutchinson. - Special Presentation from the May 31, 2001 issue of FTW]

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## Asa and Me

- I've wondered for years: What does Hutchinson know about Arkansas's biggest drug smuggler? And when did he know it?

By Mara Leveritt

Asa Hutchinson and I share a passion for the subject of drugs. As a crusading member of Congress, he talks a lot about them. As a reporter focused on crime, my writing centers on them. Hutchinson wants to intensify this country's war on drugs. I think three decades of failure have proven the war a disaster.

Now President George W. Bush has nominated Hutchinson to head the DEA, the biggest drug-fighting squad in the world. But before Hutchinson assumes that post, there are some questions about high-level cocaine trafficking in Arkansas while he was a U.S. attorney here that he should be required to answer. The questions have hung about for years, but so far he has managed to dodge them.

They relate to the period from 1982 to 1985, when Hutchinson served as the federal prosecuting attorney for western Arkansas. He speaks often of that time.

"During the 1980s, our nation declared a war against drugs," he proclaimed in a 1997 speech to the House. "I was in that battle as a federal prosecutor. It was during that time that our families, our communities, and our law-enforcement officials mobilized in a united effort to fight this war."

In another speech he observed, "I have seen the drug war from all sides - as a member of Congress, as a federal prosecutor, and as a parent - and I know the importance of fighting this battle on all fronts."

But some strange things happened in Hutchinson's district while he was federal prosecutor that he doesn't mention in his speeches. Specifically, a man identified by federal agents as "a documented, major narcotics trafficker" was using facilities at an airport in Hutchinson's district for "storage, maintenance, and modification" of his drug-running aircraft, throughout most of Hutchinson's tenure.

The man was Adler Berriman "Barry" Seal. For the last four years of his life - and throughout Hutchinson's term as U.S. attorney - his base of operations was Mena, Arkansas.

In 1982, the year that Hutchinson took office as U.S. attorney and Seal moved to Mena, federal officials were already aware that he controlled "an international smuggling organization" that was "extremely well organized and extensive." Agents for the DEA, FBI, U.S. Customs, and IRS were watching him. They brought Hutchinson evidence that Seal was "involved in narcotics trafficking and the laundering of funds derived from such

trafficking."

I knew none of this in the early 1980s. At the time, this was highly secret information, known only to a handful of state and federal investigators and a few politicians, including U.S. Attorney Asa Hutchinson.

My interest in the relationship between Seal and Hutchinson was piqued as I became aware of how heavily drug prosecutions fell on street - and mid-level dealers, while smugglers like Seal, who imported drugs by the ton, rarely ended up in prison. So when rumors surfaced about Seal and his organization, and how they had managed for years to avoid prison, even though the extent of their activities was well known to drug authorities, I wanted to know more.

But getting the story has not been easy. In the early 1990s, I asked Hutchinson about Barry Seal and his associates at Mena. Hutchinson provided no information, and politely dismissed the complaints that had arisen by then about his failure to prosecute Seal. He said he had already resigned as U.S. attorney by the time the matter arose.

Even then I knew better than that. Ignoring sidelong glances from some of my peers, who already equated drug smuggling at Mena with reports of life on Mars, I began collecting official accounts of what had happened there. My main thrust was an attempt to acquire, through the federal Freedom of Information laws, all the documents relating to Seal that were generated by the FBI.

I wish now that I had gone after the DEA's records on Seal, but I was working in the dark. I knew that the FBI had been involved in Seal's case, so I began with what I knew.

The battle to obtain even those documents has now taken longer than the length of time that Seal was based at Mena. At first the FBI denied that it had any records on Seal. When I produced photocopies of FBI memos relating to the Seal investigation, the agency acknowledged that a file existed. But, I was told, it probably would take years to review it, and besides, thousands of applicants for other files were already ahead of me.

That's when I wrote to two members of Congress, asking for their help. Even though Hutchinson is not from my district, I contacted him in hopes that, having been close to the events, he would want to help clear the record. Again, he responded politely.

He told me that it was always good to hear from me, that he had contacted the FBI in my behalf, and that he would be back in touch with me when the agency responded. He included a copy of a federal guide to using the Freedom of Information and Privacy Act, in the hope that it would help in my "research efforts." He thanked me for my patience.

That was the last I heard from Asa Hutchinson until a couple of years later, when I mentioned the incident in a column. At that point, an aide to Hutchinson hastened to apologize for the lack of follow up. But still, there was no help on the Mena front coming from the Hutchinson camp.

Fortunately, Rep. Vic Snyder was more responsive. In fact, Snyder and his staff made repeated attempts to persuade the FBI to release the records I had requested. Finally, after a personal visit from Snyder, the agency agreed to start releasing some of its files on Mena. As a result, during the past two years, I have received several hundred pages of reports relating to Barry Seal. I have posted many of these pages on my website, [www.maraleveritt.com](http://www.maraleveritt.com), and a new batch will be posted soon. The pages reflect the intensity of activity surrounding Seal, even if, in true wartime fashion, most of the details

have been blacked out.

Many of the documents have been so heavily censored that they have been rendered worthless. And hundreds more were withheld altogether. Some of the redactions were made, according to agency notations, to protect the privacy of named individuals. Many others, however, are said to have been made to protect "national security."

In an effort that my children predict I'll still be waging from beyond the grave, I am appealing the national security exclusions. What, I ask, is the connection between Seal and national security?

I have seen the rug of "national security" grow larger by the year, and it concerns me that so many aspects of this war on drugs are piously being swept under it. Too often "national security" means "don't tell the American people."

I believe that if this country is going to fight a long and costly war, the war's leaders have an obligation to report faithfully on its battles. The incidents that surrounded Seal constituted a major battle. But the faithful report has been missing. For more than 15 years, U.S. government officials, including Hutchinson, who were close to the events have maintained a stony silence.

Yet, despite the former prosecutor's unhelpfulness, chunks of the story have emerged. And scoffs about Mena aside, it is a remarkable one. The stakes with Seal were about as high as they can get in a war. The story is replete with intrigue and layers of betrayal. The losses it reflects were enormous.

Here's a gram of what happened:

Early in 1984, after years of painstaking investigation, law enforcement agencies, including the DEA, were ready to prosecute Seal. But Seal called upon political connections, and they let him become an informant rather than go to prison. The price of Seal's last-minute deal with the U.S. government was that he was to betray his Colombian allies, toppling the leadership of the Medellin cartel.

But the government lost on the deal. The plan to use Seal to rout the cartel ended in murder and failure. Not only was Seal exposed, and then assassinated, but members of his "extensive" organized crime operation evaded prosecution.

The fiasco left many law enforcement officers who'd worked on the Seal case feeling that they'd been betrayed. I've interviewed some of them, and their disillusionment is heartbreaking.

In 1992, I spoke with Jack Crittendon, a sergeant with the Louisiana State Police. He told me that 10 years earlier, in early 1982, he and his partner were building a case against Seal when they were notified that DEA officials in Miami were on the verge of indicting Seal. Armed with that information, Crittendon and his partner confronted Seal at a steak house in Baton Rouge.

"We told him we'd like for him to turn around and cooperate with us and with the DEA and with the U.S. attorney in Baton Rouge," Crittendon recalled. "We were looking across the table at him. Now, the man had a mind for business. With his mind, he could have been the head of a Fortune 500 company. It just so happened that his business was smuggling. We told him we wanted the cartel. He said he'd have to give it some thought."

Ultimately, Seal rejected the Louisiana proposal. Crittendon recalled, "We said, 'That's fine with us, but wherever you go, they're going to be after you.' And, in fact, it was shortly after that, he turned up in Mena, Arkansas."

Seal was being watched so closely that state and federal officials in Arkansas, including Asa Hutchinson, knew of his move to Arkansas, almost from the moment his first aircraft arrived. They also knew that Seal had formed a business relationship with Rich Mountain Aviation, an aircraft modification company headquartered at the Mena airport.

Soon after Seal's move to Mena, U.S. Attorney Hutchinson called a meeting at his Fort Smith office to coordinate local surveillance. Among those attending were an Arkansas DEA agent, a U.S. Customs official, and U.S. Treasury agent William C. Duncan.

Duncan's job was to investigate money laundering by the Seal organization. By the end of 1982, he had gathered what he believed to be substantial evidence of the crime.

Duncan and an Arkansas State Police investigator, who was also monitoring Seal's enterprise, took their evidence to Hutchinson. They asked that the U.S. attorney subpoena 20 witnesses they'd identified to testify before a federal grand jury. To Duncan's surprise, however, Hutchinson seemed reluctant. Ultimately, Hutchinson called only three of the 20 witnesses the investigators had requested.

The three appeared before the grand jury, but afterwards, two of them also expressed surprise at how their questioning was handled. One, a secretary at Rich Mountain Aviation, had given Duncan sworn statements about money laundering at the company, transcripts of which Duncan had provided to Hutchinson. But when the woman left the jury room, she complained that Hutchinson had asked her nothing about the crime or the sworn statements she'd given to Duncan. As Duncan later testified, "She basically said that she was allowed to give her name, address, position, and not much else."

The other angry witness was a banker who had, in Duncan's words, "provided a significant amount of evidence relating to the money-laundering operation." According to Duncan, he, too, emerged from the jury room complaining "that he was not allowed to provide the evidence that he wanted to provide to the grand jury."

Hutchinson left the U.S. attorney's office in October 1985, to make what turned out to be an unsuccessful bid for the U.S. Senate. His successor, J. Michael Fitzhugh, appeared no more zealous than Hutchinson to pursue information regarding Seal. As a result, neither Seal nor his associates in Arkansas were indicted.

(As late as 1989, according to records I've received, FBI agents in Little Rock were still expecting that some of Seal's associates would be indicted. Only after Sen. Dale Bumpers inquired into the status of the case, and calls were made to Fitzhugh's office, did the agents learn that the grand jury had disbanded the previous summer without issuing the expected indictments.)

In 1991, Treasury agent Duncan was questioned under oath about the Seal investigation. Asked what conclusions he and his superiors at the IRS had drawn, Duncan answered matter-of-factly, "There was a cover-up."

"I had found Asa Hutchinson to be a very aggressive U.S. attorney in connection with my cases," Duncan said. "Then, all of a sudden, with respect to Mena, it was just like the information was going in, but nothing was happening, over a long period of time. But, just like with the 20 witnesses and the complaints, I didn't know what to make of that."

Alarms were going off...

"We were astonished that we couldn't get subpoenas. We were astonished that Barry Seal was never brought to the grand jury, because he was on the subpoena list for a long time. And there were just a lot of investigative developments that made no sense to us."

Asked to elaborate, Duncan explained, "One of the most revealing things was that we had discussed specifically with Asa Hutchinson the rumors about National Security [Administration] involvement in the Mena operation. And Mr. Hutchinson told me personally that he had checked with a variety of law enforcement agencies and people in Miami, and that Barry Seal would be prosecuted for any crimes in Arkansas. So we were comfortable that there was not going to be National Security interference."

Duncan also said he found it "very strange" that he saw so few signs of the DEA at Mena while Seal was headquartered there. "We were dealing with allegations of narcotics smuggling [and] massive amounts of money laundering," Duncan said in his deposition. "And it was my perception that the Drug Enforcement Administration would have been very actively involved at that stage, along with the Arkansas State Police. But DEA was conspicuously absent during most of that time."

Duncan did not know while he was investigating Seal that, about a year and a half after Seal's move to Arkansas - and about midway through Hutchinson's term as U.S. attorney - the smuggler had changed his mind about becoming a federal informant. In March 1984, with charges filed against him in Florida and others pending in Louisiana, Seal was desperate to make a deal. But the U.S. attorney in Fort Lauderdale was more inclined to prosecute than to let Seal roll and become an informant. The talks had reached an impasse.

Not everyone charged with drug crimes can bargain effectively with the U.S. government. But Seal had some advantages. For one, he had financial resources. According to his own account, by 1984 he had already earned between \$60 and \$100 million smuggling cocaine into the U.S. He could hire his own lawyers.

Perhaps more important, it appears, he had cultivated some important connections. Stymied in his negotiations in Florida, Seal flew his personal Lear jet to Washington, D.C., where he met with members of a White House task force on crime headed by the elder George Bush. At the time, the current president's father was vice president under President Ronald Reagan.

There is no indication that then Vice President George Bush was present at the meeting with Seal. But the meeting was important, nonetheless. Where Seal had failed in Florida, he now succeeded in Washington, as members of the task force backed his offer to become a federal informant.

Days later, in the presence of Justice Department officials, Seal signed an agreement to cooperate with the DEA. The problem for Duncan and other investigators working in Louisiana and Arkansas was that the deal was kept a secret. Contrary to law enforcement protocols, they were not informed of the change in Seal's status.

Seal lived for 23 months after he cut that deal. They are months shrouded in mystery. Questions that have festered for years remain to this day unanswered.

Why were Duncan and other investigators assigned to follow Seal not notified that he was now a confidential government informant? And what was the DEA's role with regard to

Seal? How close was the supervision of this high-level criminal turned critically-important informant? After Seal became an informant, did he continue to smuggle drugs - and keep the money he made from them - as he later testified in court that he did?

By Seal's own account, his gross income in the year and a half after he became an informant - while he was based at Mena and while Asa Hutchinson was the federal prosecutor in Fort Smith, 82 miles away - was three-quarters of a million dollars. Seal reported that \$575,000 of that income had been derived from a single cocaine shipment, which the DEA had allowed him to keep. Pressed further, he testified that, since going to work for the DEA, he had imported 1,500 pounds of cocaine into the U.S.

Of course, Duncan and other investigators knew nothing of all this. They had no idea in 1984, as they monitored Seal's occasional appearances at Mena, that the smuggler was also flying between meetings with high-level U.S. officials and the cocaine lords of Central America. Between March 1984 and February 1986, records indicate that Seal flew repeatedly to Colombia, Guatemala, and Panama, where he met with Jorge Ochoa, Fabio Ochoa, Pablo Escobar, and Carlos Lehder - leaders of the cartel that at the time controlled an estimated 80 percent of the cocaine entering the United States.

Compounding the mystery around Seal are questions that arose during this period about his relationship with the CIA. Were the connections extensive, permeating his career? Or were they limited to one event, as the CIA maintains? I know that some of the records in Seal's FBI file - ones I've been denied on grounds of national security - originated with the CIA. So the questions remain.

What we do know is that, in June 1984, CIA technicians installed hidden cameras in Seal's C-123K at Florida's Homestead Air Force Base. The next day, Seal flew to Nicaragua, where the CIA-installed cameras captured images of cocaine being loaded onboard the plane. Two months later, at the height of the Reagan administration's effort to get congressional funding for the Nicaraguan Contras, those photos were leaked to the media. Administration sources identified the blurry figures as leaders of the Sandinista government, who were opposed by the Contra rebels.

The leak exploded Seal's cover, revealing to his associates in the Medellin cartel that he was now cooperating with the U.S. government. It ruined Seal as an informant just three months after he'd made the deal. And it set him up for retaliation.

How much of this Hutchinson knew at the time, he has never said. What is known is that at the end of 1984, Seal was indicted in Louisiana, and in January 1985, he pled guilty to drug charges there. His usefulness now limited to courtrooms, for most of 1985, Seal made appearances at federal drug trials, where he testified as a government witness against others in his trade. He helped in several prosecutions, though none in Arkansas.

Seal's most important court appearance was to come in 1986, when he was scheduled to testify at the trial of Jorge Ochoa Vasques. But in February of that year, shortly before the trial was to begin, Seal was ambushed in Baton Rouge and killed in a hail of bullets. Upon hearing of Seal's murder, one stunned DEA agent lamented, "There was a contract out on him, and everyone knew it. He was to have been a crucial witness in the biggest case in DEA history."

Why was Seal not protected? There are no good explanations. Seal's status as an informant was destroyed by the decision to leak his photos. And he was gunned down, ending his ability to testify, when he showed up for an appointment that a federal judge had ordered him to keep.

After Seal's murder, the attorney general of Louisiana wrote to U.S. Attorney Edwin Meese, requesting answers to some of the bigger questions about the government's relationship with Barry Seal. William J. Guste Jr. asked Meese why "such an important witness" had not been given protection. Guste also wanted to know how Seal had been "supervised, regulated and controlled" after agreeing to work with the DEA.

The Louisiana attorney general asked, "Was Seal allowed to work in an undercover capacity in Arkansas and Louisiana without notification to Louisiana and Arkansas officials?" And, "How were the contraband drugs he brought into the United States while cooperating with the DEA regulated and controlled?"

"Was Seal's drug smuggling organization allowed to remain intact during and after the time of his cooperation with the government? If so, why?"

"Was he permitted to keep hundreds of thousands of dollars which he made while working for the DEA by actually smuggling drugs into the United States? How was such money accounted for?"

Guste wrote, "All of these questions and others that will undoubtedly develop cry for investigation. And law enforcement agencies and the public have a right to know the answers." In 1994, Guste told me that Meese never responded to the letter. If Asa Hutchinson, who worked under Meese, made any similar inquiries, they have never come to light.

Fifteen years have now passed since Barry Seal's murder, and the still unanswered questions remain as haunting as ever. Bill Clinton, who was governor of Arkansas during Seal's tenure here, dismissed the questions during his campaign for the presidency as entirely a federal matter. Once he gained the White House, a spokesman ridiculed questions about Seal and Mena, calling them "the darkest backwater of conspiracy theories."

But these questions do not deserve such a brush-off. They deserve answers. Yet, even at this late date, instead of providing them, President Bush plans to install Hutchinson, the tight-lipped and loyal drug warrior, as head of the DEA.

While Hutchinson (and others) have remained mum about the deals and questions, politics and bumbles that surrounded Barry Seal, the peculiarities that marked Seal's case have not escaped mention entirely. In 1988, the Senate Committee on Foreign Relations issued a report prepared by its Subcommittee on Terrorism, Narcotics and International Operations that exposed the seriousness of the Seal disaster. That report read in part:

*"Law enforcement officials were furious that their undercover operation was revealed and agents' lives jeopardized because one individual in the U.S. government - Lt. Col. Oliver North - decided to play politics with the issue."*

The report continued: "Associates of Seal, who operated aircraft service businesses at the Mena, Arkansas airport, were also targets of grand jury probes into narcotics trafficking. Despite the availability of evidence sufficient for an indictment on money laundering charges and over the strong protests of state and federal law enforcement officials, the cases were dropped. The apparent reason was that the prosecution might have revealed national security information, even though all of the crimes which were the focus of the investigation occurred before Seal became a federal informant."

When I wrote to Hutchinson in 1995, he might have referred me that report. But he

didn't. Now that Hutchinson is in line to head the DEA, I think he should be required to address the long waiting questions about Seal. And a few more questions to boot.

Among them: What are the limits on secrecy when it comes to fighting this war? What should be the DEA's relationship with the CIA? How heavily should narcotics investigators be allowed to rely on drug-criminals-turned-snitches - people like Barry Seal - for activities that are kept from public review and for testimony resulting from deals?

What explanation is owed to law enforcement officers, many of whom risk their lives, only to see their efforts wasted - not purposefully undermined - as they were in the case of Seal?

What about all the inmates who are serving time in prisons for drug law violations that were insignificant compared to Seal's? What does Hutchinson say to them? And to the American people?

Like most drug warriors, Hutchinson speaks often about "messages." He resists changing even marijuana laws, saying that to do so would send the "wrong message." He opposes calling the war on drugs anything but a war, arguing that to change the terminology sends "the wrong message."

I share his respect for messages. So I'd like to hear how he interprets this one:

In 1994, when I asked the head of the DEA's office in Little Rock what had actually transpired with Seal, the agent answered obliquely that "no conclusion was determined." When I asked what in the world that meant, he explained, "Sometimes that is the conclusion: that there can be no conclusion."

I'd like to know: Would that answer satisfy Hutchinson? It does not satisfy me. --

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*-- Mara Leveritt has worked at the Arkansas Democrat and the Arkansas Gazette before becoming a weekly columnist and senior editor at the Arkansas Times. In 1996, she left full-time newspaper work to write "The Boys on the Tracks," published by St. Martin's Press in 1999. Kirkus called the book "a wrecking-ball tale of tragedy, malfeasance, and machine politics," and the Arkansas Democrat-Gazette said it "lures you in and holds you hostage until the end." In 2000, "The Boys on the Tracks" was awarded the Booker Worthen Prize by the Central Arkansas Library System.*