

TO: Lyle Martin, Bakersfield Police Department Assistant Chief

FROM: Damacio Diaz

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Subj: Suggested Revisions to BPD Narcotics Unit Protocol

## **INTRODUCTION**

The following is a summary of some of the policy violations I was involved in while working as a narcotics detective with the Bakersfield Police Department, specifically while assigned to the BPD Narcotics Unit and to the HIDTA (High Intensity Drug Trafficking Area) Task Force. The reason for this letter is to provide you with first hand admissions and examples of some of the policies which were violated by me and others. Also to provide recommendations on reviewing and possibly modifying some of the current policies, practices, and procedures of the BPD narcotics unit to ensure no future officer or detective will be able to engage in similar activity. I will also provide my opinion on practices which should be reviewed, changed, or completely done away with within the BPD narcotics unit.

This, in no way, is intended to put blame on any individual, unit, or supervisor. I am solely responsible for my actions, my choices, and my poor judgement. It is not the intent of this letter to name any other officer or detective who might have engaged in questionable behavior. The sole reason for this letter is to attempt to prevent any other officer, who might find themselves in similar circumstances as I did, from giving in to the peer pressure, the temptation, or thinking they can get away with bending or breaking policy. I know, from firsthand experience, how bending the rules on insignificant situations can eventually lead to much worse things like violating department policy and even breaking the law.

## **POLICY VIOLATIONS**

- 1) **It is a policy of the Bakersfield Police Department to never meet with a registered or unregistered informant alone.**

I understand the reason for this policy, however; I often met with informants alone. Immediately after transferring to the narcotics unit, I learned that it was common practice within the unit to meet with informants alone. I saw it many times and discussed it with other detectives many times. Some of the reasons for meeting informants alone were:

- a. Because the other detectives were too busy or the detective didn't want to bother another detective to take time out of their busy schedules to accompany them to meet with an informant.
- b. Because some informants were not comfortable being around certain detectives (non-trust of white officers by Hispanic or Black informants) and it was easier to openly talk to the informant if they were alone.
- c. Because some detectives didn't want anyone else knowing who their potential targets were. Trust was lacking among detectives in the same unit.
- d. Because some detectives had personal dealings with an informant and didn't want anyone else to be around when the detective and the informant met.

- 2) **It is a policy of the Bakersfield Police Department to always have two detectives present when paying an informant.**

This also was rarely practiced. I personally paid informants alone many times. I would simply have another detective sign the witness form at a later time. I also signed the witness

form, indicating I was present and witnessed the payment to the informant by another detective, many times when in fact I was not present during said transaction. Because we were all friends and worked together, we often backed each other up and signed each other's forms after the fact. Often times, signing the forms was done days or weeks after the actual transaction took place. Having to turn in the forms on a monthly basis made it much easier to procrastinate on filling out the forms.

- 3) **Requesting funds from the unit sergeant to purchase drug samples (control buys) was often times inflated. Because the BPD narcotics unit pays informants so poorly, it was sometimes necessary to inflate the cost of the sample buy to have extra money to pay the informant.**

From the very beginning, I learned informants who were treated right and promptly paid were much easier to handle than those who were disgruntled and mistrusted the detective. It was a common practice within the narcotics unit to request an additional amount from the unit sergeant to cover the payment to the informant. For example, if the informant was going to purchase a ½ ounce of crystal meth from a drug trafficking target and the street value of the ½ ounce was \$300.00, the detective would put in a request for \$400.00. The sergeant would approve the request and give the detective the money. Now the detective would have an extra \$100.00 (off the books) to give to the informant. This is in addition to whatever the sergeant previously approved the informant would get paid for the control buy. The informant was happy and the sergeant had no idea what was happening. This practice was obviously much easier when the unit sergeant was either inexperienced, uninvolved, or unfamiliar with the current trends or street values.

- 4) **Within a few days of working in the narcotics unit, I was taught that because “control buys” were never prosecuted and the actual sample never tested, no one would ever know whether the actual sample was booked into the property room or if the item booked was something other than narcotics.**

There were times when the sample booked into the property room was something other than narcotics. Or often times, the sample was not booked in its entirety. Sometimes the detective would allow the informant to keep part of the control buy, as a form of payment for information he/she provided or for the informant making the buy.

- 5) **In an effort to catch bigger targets and seize larger quantities of narcotics, it was normal practice to allow certain informants to continue trafficking narcotics while at the same time working as police informants.**

The detective(s) would often times offer the informant advice, information, or even protection to help them remain actively involved in the drug game so they would provide valuable information on other targets. Often times, their competition was targeted to give the informant more freedom to operate and obtain valuable information.

- 6) **Sometimes, informants were not registered as informants to prevent any type of paper trail or because the unregistered informant had concerns about certain officers or detectives knowing they were informants.**

Whenever that unregistered informant provided information which led to the targeting of another drug trafficker, that “tip” or information was documented as having come from another registered informant and the sergeant was lead to believe the information came from the registered informant, when in fact it came from the unregistered informant, who was actually a drug trafficker. No one ever questioned or confirmed exactly where the information came from. Compensation to the unregistered informant was done in the form of favors from the detective, protection from other officers or agencies, or monetary payments off the books.

- 7) **Using patrol officers to conduct traffic stops on suspected drug traffickers, who the detective previously confirmed were transporting a quantity of narcotics, was sometimes done without the involvement of the entire narcotics unit and without the knowledge of the narcotics sergeant.**

Only certain “trusted” officers/detectives were allowed to have any involvement in the traffic stop and drug seizure. Sometimes the patrol officer making the traffic stop was fully aware of what was transpiring and sometimes the patrol officer making the traffic stop was only provided partial information. The patrol officer would arrest the driver for minor violations and the detectives would seize the narcotics. The patrol officer would complete a report on the traffic stop and minor violation arrest but would make no mention of any narcotics or the involvement of narcotics detectives. Other times, the patrol officer seized part of the total amount of narcotics present in the vehicle and arrested the suspect for transportation of narcotics but the rest of the narcotics in the vehicle were not seized by the

officer and were not mentioned in the police report. The unmentioned narcotics were instead seized by the detective. All patrol officers involved, who were in on what was taking place, were later compensated for their part. The patrol officers who didn't have prior information and were not part of the whole operation were never compensated and never told what was actually going on. They were left in the dark.

8) **During a “reverse operation,” a quantity of narcotics was checked out of the property room to show to a potential buyer who was interested in purchasing narcotics.**

After the reverse operation was completed, the narcotics were returned to the property room; however, the packages were no longer the same packages originally checked out. The original narcotic packages had been switched with a counterfeit substance packaged in similar fashion. The packaging of the counterfeit substance was made to look like the original packages checked out. The original narcotics were kept by the detective.

9) **Drinking on-duty.** It is not uncommon for narcotics detectives to meet at predesignated locations, be it someone's house, local bars or restaurants, to consume alcoholic beverages while on-duty. I was not much of a drinker prior to transferring to the narcotics unit but after gaining the trust of some of the more senior detectives in the unit, I was invited and regularly met with several other detectives to drink alcohol during work hours. These drinking sessions became a regular occurrence. Sometimes, we were accompanied by the narcotics sergeant, although, it was usually just a select group of detectives. Drinking alcoholic beverages during surveillances was also a common occurrence. Prior to

beginning the “follow” of a target, certain detectives would stop at a gas station or liquor store to load up for the long surveillance follow. Sometimes certain detectives would pair up in the same vehicle to conduct the follows and both would consume. Every time detectives were involved in assisting the Sheriff’s Department with Marijuana Cultivation Operations, we would load up an ice chest full of alcoholic beverages and consume during the operation.

### **POLICY RECOMMENDATIONS**

I have outlined some of the common practices, behaviors, and policy violations I and other detectives in the narcotics unit committed on a regular basis. Now I would like to provide you with some ideas and recommendations on possible ways to curtail that behavior and prevent detectives from committing the same mistakes I made.

**Referencing item #1** - detectives often met with informants alone. In order to prevent that from continuing to occur, the unit sergeant should be much more involved in the day to day activities of the unit. Simply engaging the detective and having a conversation about the contents of the informant meet and asking specific questions including: who was present, where it took place, what time it occurred, and what was discussed, will most likely deter the detective from even considering meeting the informant alone. Having conversations about the meet with both detectives who were present with the informant at separate times will let detectives know the sergeant is on top of things and they will not risk violating the policy. Having the sergeant periodically call an informant to inquire about the meet will also prevent informant policy violations from occurring because the detectives will know the sergeant might be calling their informant. The sergeant should often discuss and remind detectives of the dangers of meeting informants alone during weekly unit briefings. Having the topic briefed on a regular basis will

indicate to detectives the sergeant will become aware if someone violates the policy. Conducting “spot checks” by unexpectedly showing up or accompanying the detective to meet with the informant will also add the sense that the sergeant is engaged in their day to day activities. Having worked in various narcotics units and task forces for several years, I know from experience, that a narcotics sergeant will be much more successful if he/she is involved and engaged in the day to day activities of a narcotics detective. Most days, the narcotics sergeant remained in the office or at the police building and was completely unaware of where the detectives were or exactly what was going on within the unit.

**Referencing item #2** – detectives often paid informants alone. This can be avoided by changing the policy and making it so a sergeant must be present during every transaction when an informant is being compensated monetarily. Informants are not paid often and having the sergeant present to personally witness the transaction would not be overly burdensome on the sergeant. The two detectives should still be the ones signing the payment form and paying the informant; however, there should be an additional line for the sergeant to sign indicating he too witnessed the transaction. This will prevent any question that the informant was paid and how much he/she received. Having such forms turned in at the end of shift, prior to the detective going home, will ensure the detectives fill out the forms while the information is still fresh in their mind. Waiting days or even weeks to turn in the required forms sometimes creates problems such as the detective confusing dates, times, case numbers, or even what amount was paid to which informant.



**Referencing item #3** – Having a sergeant in charge of the narcotics unit who actually has experience working narcotics and is familiar with the current trends and street values will obviously make it much more difficult for a detective to consider inflating the price of a sample buy. Changing the policy so a sergeant must be present during a narcotics purchase, no matter how big or small, will also ensure policy is followed when informants are sent in to conduct a control buy. The sergeant should always be present during the initial meet with the informant (prior to the informant being sent in to conduct the buy) when the money and instructions are provided to the informant. The sergeant should also make an effort to be present after the control buy, when the detective debriefs the informant and collects the sample buy. Having the sergeant present will ensure department policy is followed and will make the sergeant aware of any issues or concerns the informant might have regarding the target, the location, or the operation plan. The sergeant should have conversations with the detective and the informant about current trends, street values, and possible concerns on an informal basis. These informal conversations will educate the sergeant and also give the detective and the informant the impression the sergeant is knowledgeable, interested, and in charge.

**Referencing item #4** – not testing control buys. I understand the reason and necessity to not prosecute suspects involved in “control buys”; however, every single property item, containing a narcotic substance, should be tested to ensure it is actually a narcotic. The likelihood of an officer or detective manipulating a control buy, knowing it is going to be photographed, weighed, and tested, will be significantly reduced if a policy is implemented requiring this practice to be followed. Because of financial concerns, I don’t think it is necessary for the control buy to be sent to the District Attorney’s Crime Lab for examination; however, someone in the property room or

the department's crime lab, who has the knowledge and training, should perform a "field test or presumptive test" on every control buy booked into the property room to determine if the control buy actually contains a narcotics substance. That practice alone will be a big deterrent for any type of abnormal behavior by an officer or detective booking a control buy. I am familiar with several experienced informants who have worked for various BPD detectives who gave the detective a bindle/baggie containing counterfeit drugs after the control buy. These informants are aware of the BPD policy to not prosecute suspects involved in control buys. They are also aware of the practice to not send control buys to the Crime Lab for testing. Therefore, they take it upon themselves to make a counterfeit bindle/baggie and hide it on their person prior to the buy. Most detectives do not pat down or search informants prior to the control buy because they don't want to offend the informant or give them the impression they are not trusted. The informant's bindle/baggie contains a substance that resembles narcotics but is something other than narcotics. The detective never bothers to check the "drug sample" and never becomes aware it is not narcotics. The informants are "con-artists" and will take advantage of some officers/detectives. After the control buy, the informants give the bindle/baggie containing the counterfeit substance to the detective and keep the sample they purchased for their own personal use or to sell at a later time. A presumptive test would inform the detective that the control buy was not narcotics. The detective would need to follow up to determine if the informant switched bindles or if the drug trafficker sold them "bunk dope".

**Referencing item #5** – allowing certain informants to continue operating as drug traffickers while at the same time working as police informants. The practice is much more common than anyone would like to admit. The entire time I was assigned to the narcotics unit, there were certain

informants that were given the freedom to operate and transact throughout the city and beyond. Putting the informants name, address, and other information into the WSIN (Western States Information Network) database would give the detective another added method to ensure the informant would be protected. If another officer or unit from within the department or from another agency came across information that the informant was involved in narcotic sales, they would check the WSIN database and learn the informant was already in the WSIN database. They would contact the detective who put his name in the database and that detective would instruct them to back off.

A senior detective or sergeant should constantly have discussions with detectives about their informants to determine whether the informant is following the rules and abiding by the informant contract. If and when another officer or detective obtains information that a particular informant is actively involved in any crimes, that officer/detective should immediately inform the narcotics sergeant and should be allowed to actively pursue that information to determine its veracity. The handler of the informant in question should not take it personally or interfere with another detective actively investigating the informant. The sergeant should have weekly briefings/meetings with all the detectives in the unit to discuss their informants and potential targets. The sergeant should regularly discuss team unity and discourage secretive competition amongst the detectives. Instead, he should encourage detectives to work together and help each other out. Detectives should be encouraged to allow other detectives to use/work with their informants. The informants should be made to work with other detectives. Especially if the informant is working off a criminal case. That informant should have no say in who he/she desires to work for.

**Referencing item #6** – Initiating investigations from unregistered informants. For several reasons, some drug traffickers agree to become “police helpers” for certain detectives but do not want to be known as informants and do not want any type of informant paperwork to be completed. Those individuals have a large distrust of law enforcement in general but have a semi-trusting relationship with a particular detective. They agree with the detective to provide valuable information on other drug trafficking organizations or other drug traffickers within their own organization with the promise that no one, other than the detective, will ever know where that information came from. When the detective briefs the other members of the unit or the sergeant, he makes it appear as if the information came from a reliable informant known to the unit. No one ever questions the truthfulness of the information because that “reliable informant” is often providing valuable information. What the others may not know is that a large percentage of the information disseminated in the past, by this particular detective, may have in fact come from the unregistered “police helper.”

In order to continue receiving valuable information from the unregistered informant that often leads to drug seizures and arrests, the detective needs to compensate that unregistered informant. Many times, the compensation is made in the form of “favors” to the unregistered informant. There are several ways a detective can offer favors to an unregistered informant.

- a) Favors may be made by assisting the unregistered informant with a personal problem such as a domestic situation with a spouse, girlfriend, or family member.
- b) Favors may be done in the form of having a vehicle, which was impounded by another officer and is currently being stored, be released by the traffic division. The detective will simply contact a trusted friend in the traffic division and request the impounded vehicle be

released. Often times the traffic officer will be told there is a narcotics investigation which requires the vehicle to be released. That vehicle may be the unregistered informant's or someone who is important to him/her.

- c) Favors may be made by targeting a drug competitor who is affecting the profit margin of the unregistered informant.
- d) Favors may be made by contacting an Immigration/Customs Agent and having them assist in obtaining a temporary or permanent visa for the unregistered informant or a family member.
- e) Favors may be made in the form of protecting the unregistered informant from other officers or other investigation units who may have desired to initiate investigations into the unregistered informant's drug trafficking operation, including his "runners," "mules," or family members. This can be done by using WSIN to become aware if someone else is looking into the unregistered informant. Constantly speaking with other detectives and officers who you know are proactive will usually make you aware if your unregistered informant's name has come up. If you become aware that your unregistered informant is being looked at, you would normally make the unregistered informant aware of the investigation and advise him/her on what steps to take in order to avoid being arrested.

**Referencing item #7** – Sometimes detectives contacted certain patrol officers and requested they conduct traffic stops on vehicles whom the detectives had prior knowledge the drivers were transporting a quantity of narcotics (wall stops). The reason certain patrol officers were contacted via their personal cell phone was because the patrol officer was trusted and the detectives knew they wouldn't ask too many questions and would go along with whatever the detective asked them

to do. The patrol officer was asked to conduct a traffic stop on a certain vehicle at a predesignated location. Prior to the traffic stop, the detective would already know who the driver was and whether the driver had a valid California license and whether the driver was in the country illegally. The patrol officer was told to contact the occupant(s) and remove the occupants from the vehicle. Once the driver was placed under arrest for driving without a valid license, the patrol officer was told to request a tow truck for the traffic impound. Prior to the tow truck arriving, a detective would search the vehicle and seize the narcotics. The driver was not charged with the narcotics and only charged with the traffic violations. Most times, an immigration hold was placed on the driver by the ICE agent reviewing all booked subjects into the county booking facility. The patrol officer was told to never mention anything about the detectives or the narcotics which were seized. Sometimes the officer was given a monetary gift for his cooperation in the traffic stop.

Detective vehicles do not have GPS devices installed and a detective can go anywhere and do whatever they want without anyone really knowing where they are. Having a GPS device in the detective's vehicle, which can be accessed by a watch commander or narcotics sergeant at any time, would be a big deterrent in detectives involving themselves in illegal activities. Patrol sergeants should conduct periodic training with patrol officers explaining the concept of a "wall stop" and make it clear to every patrol officer that "wall stops" should only be conducted with the prior approval of the patrol sergeant. The police department would benefit from having a written policy which clearly states that any detective wishing a patrol officer conduct a "wall stop" need prior approval from the patrol officer's direct sergeant. And that any patrol officer conducting the traffic stop for the detective verbally code off on the appropriate radio channel. The policy should also clearly state that a patrol sergeant should approve the arrest of the suspect targeted in the "wall

stop” in person, meaning the patrol sergeant should respond to the location of the “wall stop” to ensure policy was followed.

**Referencing item #8** - Checking out narcotics from the property room for a reverse operation. During a reverse operation, it is necessary to check narcotics out of the property to be used in the operation. Sometimes, the property clerk checking the narcotics packages out isn't the same property clerk when the packages are being checked back in. The property clerks have no idea what is in the packages being returned to the property room. All they are concerned with are whether the case numbers match and whether the property numbers on the packages being checked back in match the property log.

In order to avoid the likelihood of the detective, officer, or property clerk making any mistakes or there being any question that the item being returned is the same item that was originally checked out, a property room manager should be present, along with the property clerk filling out the paperwork. The narcotics sergeant should also be present with the detective requesting the item. The property room manager and the narcotics sergeant should both be present during the check-out and again when the item is being returned. A presumptive test should be performed on every package being re-booked to ensure it contains a narcotic substance.

**Referencing item #9** – Drinking on-duty. Drinking during work hours may occur even when detectives are not assigned to vice/narcotics but it is much more prevalent among detectives assigned to vice/narcotics. I worked as a BPD detective for over 10 years and periodically became

aware of a detective assigned to units other than narcotics sometimes drinking during work hours. But when I was transferred to Vice and then to Narcotics, I saw how this sort of behavior was normal. After a short while of being in the unit, I was invited to participate in some of the afternoon social gatherings where detectives would congregate to drink alcoholic beverages. These social gatherings were usually in small bars or restaurants. Sometimes, the unit sergeant(s) would be present. I also learned that drinking during "follows" or while on surveillance was common amongst certain detectives.

In order to deter this type of behavior, the narcotics sergeants should take a more proactive role in discussing the seriousness of drinking while on duty. The sergeants should immediately contact an officer or detective whom they suspect of having consumed alcoholic beverages and take the appropriate action. Sergeants should never participate in social gatherings when drinking is taking place during work hours. This will only encourage detectives to continue with that behavior. If a sergeant learns that a detective has an ice chest in their vehicle or is constantly stopping at liquor stores or gas stations prior to long surveillance operations or follows, the sergeant should carefully and un-accusatorily meet with the detective to attempt to find out if the detective is in possession of alcoholic beverages. If so, appropriate action should take place immediately.

These are some of the behaviors I and others engaged in during my tenure in the narcotics unit. The lax environment, the unwillingness of supervisors to become involved in the day to day activities, and the attitude that this is how narcotics detectives behave is what encouraged this type of bad behavior. Even though I am no longer a police officer, I have a great deal of respect and



admiration for those who continue to walk the beat. I pray no other BPD officer will ever have to go through the humiliation and personal attacks I received based on my poor choices and actions. If these suggestions will be considered and prevent another officer from walking down that slippery slope and eventually crossing the line, then this letter was worth writing. If you should have any questions of me or would like to discuss it in more detail, please feel free to contact me at your convenience.

Respectfully,

Damacio Diaz