

REPORT DATE December 4, 2009	COLORADO BUREAU OF INVESTIGATION REPORT OF INVESTIGATION	FILE Administrative
TYPE REPORT Initial	REPORT BY Agent Curt Williams	AREA Moffat County, Colorado
NATURE OF CASE Administrative, Audit of Drug Task Force		

SYNOPSIS:

On November 13, 2009 I was given an assignment by Assistant Director Linnertz to conduct an audit of the A.C.E.T. (All Crimes Enforcement Team) Task Force in Craig, Colorado. This resulted from a request from Walt Vanatta, Chief of Police of the Craig Police Department. Two recent incidents involving the Task Force prompted him to ask for the audit and additionally to obtain recommendations to improve the operations of the Task Force.

This audit and recommendations are based upon my experiences in task force and narcotics investigations with the Denver Police Department's Vice and Narcotics Bureau, as Commander of the Front Range Drug Task Force and as a member of the Executive Boards for the Seventh Judicial District Drug Task Force and the Southwest Colorado Drug Task Force.

On November 16, 2009 I met with Chief Vanatta and Moffat County Sheriff Tim Jantz. They told me the history and structure of the ACET Task Force. They also provided copies of two recent investigations, one internal and one criminal that resulted in charges being filed against two members of the ACET Drug Task Force. This information and the supporting documentation is included in the report as "Attachments".

REQUESTING

AGENCY: Craig Police Department

DATE / TIME

OF REQUEST: November 13, 2009

ACET TASK FORCE:

The ACET Task Force is comprised of three investigators, one of whom is the Task Force Commander. The Task Force Commander is Garrett Wiggins who is assigned from the Steamboat Springs Police Department. The other two members are assigned from the Craig Police Department and the Moffat County Sheriff's Office. The Board of Directors for the ACET Task Force are the administrators for the agencies that assign full-time investigators to the Task Force. This Board consists of J.D. Hays, the Public Safety Director for the Steamboat Springs Police Department, Walter Vanatta, the Chief of Police of the Craig Police Department and Tim Jantz, the Moffat County Sheriff.

"Advisory" Board members consist of the District Attorney for the 14th Judicial District, the Sheriff of Jackson County and the Chief of Police of Hayden, Colorado.

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Chief Vanatta gave me a copy of the ACET Policy and Procedures Manual (**Attachment #1**) that was updated on June 24, 2009 and was signed by each member of the Executive Board on that same date.

REASON FOR AUDIT REQUEST:

As a result of two recent investigations involving the ACET Drug Task Force, two members of the Task Force were filed on for criminal charges and dismissed from the Craig Police Department and the ACET Task Force.

When I spoke with Chief Vanatta he provided copies of investigative reports, emails and news articles pertinent to the requested audit and recommendations. All of these documents are attached.

A review of the emails and news articles would indicate that there are problems extant with the ACET Task Force; their relationship with the Task Force Executive Board and with the Task Force Commander. Internal investigations and investigations conducted by the District Attorney's Office would also indicate that there may be problems with Task Force operations as well as with oversight responsibilities that rest with the Board of Directors of the ACET Task Force.

When I met with Chief Vanatta and Sheriff Jantz they requested an audit of the ACET Task Force. They asked that the audit include recommendations for improving the operations and accountability of the Task Force. Chief Vanatta said the report would be submitted in its entirety to his City Council.

I was given a copy of the Task Force Operations and Procedure Manual to review.

I informed Chief Vanatta and Sheriff Jantz that I would take the documents with me; review them and return to the Task Force on November 18, to interview TF Commander Garret and follow their procedural steps while comparing them to their standard operating procedures detailed in their Operations Manual.

After speaking with Chief Vanatta and Sheriff Jantz, I responded to the Task Force office in Hayden, Colorado. I met with Garrett Wiggins. He was aware of the request for an audit of the Task Force and he welcomed recommendations that would improve the ACET Task Force. I asked for and received a number of documents from Task Force Commander Wiggins. He provided another copy of their Operations and Procedure Manual and copies of some of the forms they use day to day in their investigations. He also gave me copies of criminal cases his unit has filed.

Wiggins explained how the negative issues between he and the Board of Directors evolved and how these issues affect the operations of the ACET Task Force. It became readily apparent that there are serious negative factors existing between the Task Force Commander and the Task Force Executive Board that limit the effectiveness of the ACET Task Force.

On November 17, 2009, I conducted an examination of the ACET (All Crimes Enforcement Team's) POLICY AND PROCEDURE MANUAL.

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POLICY AND PROCEDURES MANUAL REVIEW:

A tenet in narcotics units throughout the country is the premise that there are few areas in law enforcement where well written and rigidly enforced procedures are more important than in narcotics investigations. It is the duty of a Task Force Commander and the Board of Directors to protect their narcotics officers by adhering to clearly established policies. The personal reputations and the physical safety of the investigators results from strict policy and rule compliance. Invariably, not following well-tested policies will result in damage and embarrassment to the individuals, their families and to the agencies for which they work.

In general, the ACET Policy and Procedure Manual follows the format of most Drug Task Force policies with which I am familiar. This includes:

Mission/Statement Goal	Duty Hours
Compensatory and paid overtime	Requests for Leave
Complaint Procedures	Expenditure procedures
Process for Fund Expenditures	Supervisory Responsibilities
Use of Force	Notification of Significant Incidents
Motor Vehicle Operations	Confidential Informants
Under Cover Vehicles	Supervisor/Informant Responsibility
Informant Payments	Informant Consideration
Informant Documentation	Informant Documentation and files
Operational Plans	Operational Briefings
Search Warrant Techniques	ACET owned equipment
Undercover guidelines	Undercover Equipment
Undercover Operations	Undercover Equipment
Use of Flash Funds	Use of Narcotics
Drug Seizures	Currency Seizures
Case Reporting Procedures	Reports and Records Storage
Executive Board	New Policies

On November 18th I met with Task Force Commander Wiggins. I told him I was asked to conduct the audit because of my experience in supervising, commanding or overseeing Narcotics Units and Drug Task Forces in many parts of the state.

I began the audit by conducting a money count of actual cash on hand. The cash is kept in a safe and the Task Force Commander alone has the combination of that safe. There was \$2,980.00 on hand and this amount corresponded to the computer records and balance sheets.

RECOMMENDATION:

A voucher or receipt book is not kept in the safe. An inexpensive Receipt Book, with numbered transactions, should be maintained in the safe. An individually numbered receipt should be completed:

- Any time money is taken from the safe
- When money is deposited in the safe
- When money is returned following a drug transaction

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- Each and every transaction should be tracked by its own receipt number and corresponding case voucher.
- Each transaction recorded should match up, when audited, with a receipt in the book in the safe as well as with an investigative voucher filled out by the investigating agent
- Each receipt book entry should have two signatures. These signatures would consist of the supervisor's and the agent's or the financial officer's.

The next step in the audit consisted of asking questions directly related to their Policy and Procedure Manual.

PURPOSE (page 5)

The Manual states, *“Each ACET officer will be individually responsible for reading and complying with all General Orders, Operation Orders, and Special Orders. Each Employee will be responsible for maintaining and keeping their own manual current.”*

RECOMMENDATION:

It is imperative that each agent assigned to the Task Force reads and understands the operational policies. It is equally important that each agent signs a supervisor's log acknowledging that the procedures were read, are understood and they will comply. Considering the two recent issues with Task Force Agents, signed acknowledgement of procedural policies assures accountability.

SECURING CASH FUNDS (pages 12-13)

The Manual states, *“Funds will not be checked out to investigators in lump sums for multiple operations, but should be case and operation specific. At the discretion of the TF Supervisor, funds may be issued to ACET investigators for cash on hand for the purpose of undercover controlled purchases only. A Confidential Funds Request will be filled out and signed by the receiving investigator and the Task Force Supervisor.”*

Under the current procedures, each Task Force Investigator is given a perpetual cash fund. Task Force Commander Wiggins said when an agent is assigned to the unit he/she is issued \$500 for “cash on hand”. As an agent uses money from this personal fund, it is replaced from the safe. Therefore, when an agent starts with his personal \$500 bank and he purchases narcotics or information for an investigation, the amount he spent from his personal “bank” is replaced to bring the on-hand amount back to \$500. This procedure is not in keeping with the Policy and Procedure Manual.

RECOMMENDATION:

The initial policy statement specifies, **“Funds will not be checked out to investigators in lump sums for multiple operations, but should be case and operation specific.”** *(This is the standard policy with narcotics units. Money can only be checked out to do a specific deal. If it does not take place the money is returned. It is not kept by an agent to be used as needed.)*

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This policy is rendered ineffective by the next sentence which states, “...at the discretion of the TF Supervisor, funds may be issued to ACET investigators for cash on hand for the purpose of undercover controlled purchases only.”

The problem with this second sentence of the policy is readily apparent with the incident involving a Task Force Officer and his misuse of funds.

Under no circumstances should investigative money ever be mixed with personal money. The money issued by the Task Force Commander for conducting narcotics investigations is EVIDENCE. When money is given to an investigator:

- The serial numbers should be recorded or the bills photo copied
 - The money must be kept completely separate from the agent’s personal money
 - If an investigator is permitted to keep investigative money for an extended period of time, the Task Force Commander should conduct frequent and random inspections of the agent’s issued-money to insure that he/she has the exact money on hand that was originally issued.
 - As in the crime of embezzlement, the person taking the money may intend to replace the money they took. However, when they convert the funds to their personal use, they have committed a crime regardless of their intent to replace it at some time in the future. The same premise holds true with investigative funds issued to a narcotics investigator. IT IS NEVER THAT PERSON’S MONEY. It is agency money to be used as evidence and should always be treated as such.

It is imperative that whenever cash is issued to an agent, a double signature accompanies the transaction in the receipt book kept in the safe.

The audit of the ACET Task Force disclosed that although mandatory double signatures are required, they are not always present. This is one of the first criteria checked during any audit and it should be rigidly enforced. This is stated as policy on page 13 of the Manual; however the audit disclosed that it is not the norm.

PROCEDURE RECOMMENDATION WITH REGARDS TO ALL CASH FUNDS:

The safe and its contents should be treated exactly as an Evidence Room and chain of custody rules should apply:

Any time there is a cash transaction there should be two signatures on the paperwork.

SITUATION:

- **Cash is deposited into safe for investigative use**
 - Cash is received from bank and placed into the safe

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- A receipt book kept in the safe records the deposit and this numbered receipt is signed by two individuals
 - A voucher, with the receipt book transaction number noted on it, is completed to show a deposit
- **Cash is taken from the safe to be used in an investigation**
 - Cash is taken from the safe
 - The safe receipt book shows the transaction and the amount issued is deducted from the amount of cash on hand in the safe
 - The receipt book transaction number is recorded on the case voucher
 - The Task Force case number is recorded in the safe receipt book
 - The receipt book is signed by two individuals
 - The actual bills are photocopied and the photocopy is attached to the voucher with the serial numbers visible
- **The money for the narcotics deal was not used or only part of it was used**

During the audit I asked the Task Force Commander to show me an example of the forms they use to show “funds returned” as dictated in the Operation Manual page 12. He said they have never used the form. He said they shred the Expenditure Sheet reflecting the original cash withdrawal and then make a new one to show the amount ultimately spent on the deal. This procedure is ill-advised as it does not reflect the actual money (evidence) flow. It should clearly reflect the amount of money taken out and issued for the transaction. If it is not used or only a portion of it is used a new transaction entry should reflect what happened and the case should clearly show the return and the flow of the money.

Example:

- **11/2/09, Case 2009-0001, \$200.00 for undercover buy- walk, safe receipt #1234. Currency is photocopied.(two signatures in receipt book)**
- **11/2/09, Case 2009-0001, \$50.00 returned on case. Suspect unable to furnish amount of drugs originally agreed upon. Only \$150.00 used in deal. \$50.00 returned to safe receipt #1235. (two signatures in receipt book).**
 - The money is returned to the safe on the same date the deal was attempted
 - A transaction is completed in the safe’s receipt book showing a “RETURN” of funds and the Task Force Case Number is recorded on that receipt as well as a notation that it is “A return on receipt number...” (The receipt number reflecting the withdrawal of the money and is signed by two persons).
 - The amount of money is added to that already in the safe to show that the cash on hand is balanced.
 - All of the money in the safe is physically counted by two parties for verification
 - The safe receipt book is signed by two persons to verify the return and the balance in the safe.
 - The voucher for the investigation has the receipt number noted

GENERAL CASH RECOMMENDATIONS:

- Do not issue funds to be used for long-term or on-going investigations.

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- When money is dispersed and not used, the money must be returned on the same date or as soon as is reasonably possible.
- Always photocopy money to be used in a drug transaction
 - When funds are not used and are returned to the safe; compare the serial numbers to the photocopy to insure that personal money was not mixed with agency money
- Though ill-advised, if the policy is written to permit the issuance of cash for “cash on hand” to be used by the agents perpetually; (For example \$500 issued to each agent so they have the money on hand for an extended period of time):
 - Issue the money after complying with all procedures discussed in the above “cash transaction” section
 - Photocopy the money issued to the investigator
 - Emphasize the fact that the money is not to be used or mixed with personal funds
 - Inform the agents that random and regular inspections will be done to insure that the agent has the money and it is the same money originally issued
 - Adhere to a policy that the agent will have the cash on hand whenever he/she is working and that it is separate from personal money
 - Adhere to a policy that the cash on hand is returned at a regularly scheduled date (end of month, end of week, etc).
 - When the money is returned, follow the above procedure on Return of Funds
 - Compare the bills to the photocopies
 - Re-issue the cash on hand funds following the procedures described in issuing cash.
- Task Force Commander Wiggins said at one time he checked the money issued to the agents on a weekly basis but that is no longer the case. He also said there was not a record maintained of these periodic inspections of an agent’s on-hand money.

COMMENT:

Narcotics Investigations standards and my personal experience demonstrate that it is not good policy to issue \$500 for each agent to have buy- money as needed because an investigative opportunity may occur without having the time to plan for it.

- It is too easy to lose, misplace or misuse the money
- There should never be “spontaneous” drug deals that demand instant cash to make the deal happen right away.
 - An informant or a drug dealer should **never** dictate the terms or conditions of a drug transaction. This should always be dictated and controlled by the narcotics agent
 - A spontaneous drug deal connotes no planning or operational considerations. There is no such thing as “Just another Deal”.
 - EVERY DRUG DEAL SHOULD BE CONSIDERED DANGEROUS AND OFFICER SAFETY SHOULD ALWAYS OVERRIDE A QUICK BUY OR DEAL.
 - This risk is limited when the agent and not the informant or suspect controls the deal

If for no other reason, following precise money handling procedures will slow a deal down. This protects the agent and everyone else involved in the transaction.

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Confidential Informant Expenditure of over \$500 (page 13)

The Procedure Manual specified that if there is expenditure over \$500 the Executive Board must approve. The Procedure should specify how this is to be done.

- Must the expenditure be approved by every member or by a quorum?
- Must approval be accompanied by a document containing the signatures of the Board or is verbal approval enough?

Task Force Commander Wiggins said a request for over \$500 has never been made. Regardless, a procedure should be spelled out should the situation arise.

Monthly Reconciliation Report (page 14)

The Manual dictates that there will be a monthly reconciliation report and it will be available for periodic audits.

- TF Commander Wiggins said this has never been done.
- Other than JAG funds, he has never conducted or been asked by the Executive Board to conduct a Periodic Audit as specified by the Procedure Manual.

RECOMMENDATION:

Periodic audits are essential with Monthly Reconciliation Reports submitted to the Executive Board. They can be done by the financial assistant then reviewed and approved by the Task Force Commander.

Outside audits should also be conducted annually of the funds as well as of procedures.

Confidential Informants (page 19-26)

The Procedure Manual listed clear and specific requirements for the maintenance of an Informant Package. Each file must contain:

- Photo of informant
- Vehicle information on informant
- A Confidential Source Agreement
- A Confidential Source Establishment Report
- Current Criminal History
- Documentation of payment history
- Full name and DOB
- Driver's license information
- CI number assigned to the individual

As a part of the audit I selected a case which utilized an informant and then inspected the Confidential Informant Package.

- Although the packet did contain most of the above information, the informant's criminal history was not checked until after the informant was actually used on a narcotics deal.
 - This constitutes a significant mistake. The Procedure Manual is clear and appropriate with regards to who may or may not be used as an informant. For instance, a person who is a fugitive may not be used. Without a criminal history check, this information is not going to be known. Other individuals, such as people

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with a history of violent crimes, may not be used as informants. The criminal history check must be made before they are used or the entire investigation may be jeopardized. This documentation must be included in the packet.

- The responsibility to see that this is done rests with the Task Force Commander.

Note: Upon inspecting other Informant Packets, the criminal histories were done appropriately. I did not look at every packet but other packets did not have the required photograph of the suspect.

The Informant Packets were kept in a secure location and appropriately, only the Task Force Commander had access to them.

Review of Informant Packets (page 27)

The Manual dictates that the Task Force Commander will review the Informant Files quarterly.

Task Force Commander Wiggins said he does not review the Informant Files as specified in the Operations and Procedure Manual.

RECOMMENDATION:

The Task Force Commander should regularly inspect the Informant Files.

- He should insure that a record or log is kept of contacts and payments between Task Force Agents and the Informants.
- He should do criminal history checks to insure that the informants are still viable informants.
- ***The Task Force Commander should actually meet with active informants on a regular basis, (page 26) at least once a year but ideally twice a year and:***
 - Make sure they are still complying with their contract or agreement
 - Make sure the contacts that the agents conducted with them, did in fact occur
 - Verify that they have received the payments the agents say they have made to them
- It is imperative that the Agents assigned to the Task Force know that the Task Force Commander will personally contact each informant and interview them on a regular basis. This assures that the agents will maintain a professional relationship with the informants.

TF Commander Wiggins said this procedure has not been followed.

The Procedure Manual states:

- A second officer should always be present, when possible, when meeting with an informant. This is a very sound policy but the “two officer” rule should be mandatory except under extremely unusual circumstances. *Task Force Commander Wiggins said his officers are required to notify him if it is not possible to have two officers present and he said the meeting is recorded under those circumstances.*

RECOMMENDATION:

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There should always be two officers present when meeting an informant. This should be mandatory if the informant is of the opposite sex or if a cash payment is going to be made. Although the ACET Task Force is small, the investigators should dictate when and where meetings with Informants take place. These meetings should not be controlled by the Confidential Informant. If another investigator cannot respond, perhaps a uniformed supervisor could be present at the meeting. Additionally, if a payment is made, both of the officers present, along with the informant, should sign the receipt.

The Informant payment receipts I inspected had the signature of the Informant and only one agent. If there are two present, both should sign.

The Operations Manual is contradictory in this policy. On page 22 it states “two agents are always required...” On Page 23 it says “normally required”. Consistency is important.

CI PAYMENT PROCESS:

An inspection of this process showed that the Task Force complies with the Procedure Manual.

- CI Source Agreements were completed
- CI numbers were assigned
- CI information packets were completed (with the above noted exceptions)
- Receipt book signed by the CI

FLASH FUNDS (page 39)

The Task Force has never used a Flash Fund and there is not a Flash Fund at the Task Force.

DRUG SEIZURES (page 44)

The procedures in the Procedure Manual are followed by the Task Force.

- If an ACET Agent discovered or seizes drugs the Task Force Commander is notified (If not immediately, as soon as possible)
 - If drugs are seized and the TF Commander is not working he is called at his home.
- Drugs are never kept at the Task Force Office
- Seized drugs are never locked in an agent’s vehicle overnight
- Drugs that are seized are processed through the Moffat County Sheriff’s Office

VEHICLES (page 17-18)

The Procedure Manual discusses under cover vehicles but only with regards to the reporting of accidents and the wearing of a uniform when operating an under cover vehicle.

RECOMMENDATION:

A policy should be established that addresses the use of under cover/unmarked vehicles. If the vehicle is to be used only while on-duty and conducting investigations, it should clearly state so. If the vehicle is assigned as a “full-use” vehicle and can be used for personal business as well as agency business, the policy should state so. Otherwise, there are extreme liability issues if a vehicle is misused in an off-duty situation.

ALCOHOL USE:

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Although the Procedure Manual shows that there is a procedure to be followed if an agent consumes alcohol on duty, there is nothing on those pages pertinent to alcohol consumption. Many drug task forces permit the limited consumption of alcohol when working in an undercover capacity.

RECOMMENDATION:

If it is going to be necessary for an agent to consume alcohol he should notify the Task Force Commander of that fact. If he cannot, because of a compromising situation, the agents monitoring the deal should notify the Task Force Commander. It goes without saying that there should never be an undercover investigation in which an agent is acting without cover. Consumption should be limited and the agent should never become intoxicated.

Revisions to the Procedure Manual:

RECOMMENDATION:

Policies and procedures should be the subject of regular reviews and audits. When it is necessary to change a policy:

- The recommendation should be reviewed by the Executive Board
- The revision should be signed as approved by the Executive Board
- Upon approval it should be inserted in the Manual with the date the revision was approved.

The Revision Policy is one method to assure the continued and active participation of the Executive Board. It is imperative that a Task Force Executive Board is very active in their relationship with the Task Force Commander and is supportive of the efforts of the Task Force.

It is also imperative that the Task Force Commander keeps the Executive Board informed. An individual on the Board of Directors should be identified as a primary contact whenever the Task Force is conducting a narcotics investigation. That Board Member has the responsibility to contact the other Executives so if something newsworthy happens in an investigation, there are no surprises.

Those sections of the Policy and Procedure Manual that have not been addressed in this review appear to be well written policies that conform with national standards.

ATTACHMENTS:

- Attachment 1: ACET Procedure Manual
- Attachment 2: Email from Wiggins to City Council
- Attachment 3: Email from Wiggins to Vanatta and response
- Attachment 4: News articles provided by Vanatta
- Attachment 5: Criminal case on Officer Ken Johnson
- Attachment 6: Internal case on Officer Brabo

Curt Williams
Agent (Reporting)

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Collin Reese
Agent in Charge
(Reviewing)

Dave Linnertz
Assistant Director
(Reviewing)