

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 1, 2000

GENERAL ORDER D-4

SUBJECT: SPECIAL ENFORCEMENT UNIT (SEU)

PURPOSE

- 1 - The purpose of this General Order is to formally establish a Departmental commitment to the detection, apprehension, and prosecution of all persons engaged in narcotics, vice, organized crime and related criminal activity.

POLICY

- 2 - Although it is the responsibility of each member of the Berkeley Police Department to enforce and investigate all criminal activity, including vice and narcotics, the Special Enforcement Unit is specifically established to respond to this type of criminal activity.

UNIT STRUCTURE

- 3 - The Special Enforcement Unit (SEU) is a unit of the Patrol Division, commanded by a Lieutenant, who is responsible to the Patrol Captain.

The Special Enforcement Unit consists of **three** components:

- (a) Drug Task Force Teams
 - (b) Special Investigations Bureau (SIB)
 - (c) Administrative Narcotics **Unit**
- 4 - DTF, SIB, and Administrative Narcotics personnel will work a basic shift as follows:

DTF Team 1: **Basic 4/10 shift 1400-2400 hours (FSS off)***

DTF Team 2: **Basic 4/10 shift 1400-2400 hours (SMT off)***

SIB: **Basic 4/10 shift 1200-2200 (SSM off)***

Administrative: **Basic 4/10 shift 0700-1600 hours (FSS off)***

NOTE: Hours are flexible due to the nature of the assignment.

DRUG TASK FORCE TEAMS

- 5 - The purpose of **Drug Task Force Teams*** is to provide uniformed, street-level drug enforcement.
 - (a) Each DTF Team is supervised by a Sergeant, who reports directly to the Special Enforcement Unit Lieutenant.
 - (b) The responsibilities of the Drug Task Force Teams include:

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- (1) Taking assertive action against street drug traffickers.
 - (2) Conducting "buy/bust" operations, using undercover buyers.
 - (3) Completing drug surveillances.
 - (4) Responding to "hot spot" complaints when available, and completing field interviews, foot patrol, and traffic enforcement.
 - (5) Monitoring police radio channel one for current activities and specialized assignments, when required.
 - (6) Conducting* "sting" and "buy bust" operations.
- (c) DTF personnel will normally wear the Drug Task Force uniform consisting of raid jacket, ballistic body armor, blue or black denim, or black "BDU"* trousers, and appropriate shoes when engaged in high profile street drug enforcement.

SPECIAL INVESTIGATIONS BUREAU (SIB)

- 6 - The Special Investigations Bureau (SIB) is responsible for the investigation of the following:
- (a) Narcotics Offenses (including 23105 VC).
 - (b) Prostitution.
 - (c) Gambling.
 - (d) Liquor control.
 - (e) Public dances, skating rinks, circuses, carnivals, cabarets and other activities in which vice might be a factor.
 - (f) Follow-up investigations:
 - (1) Forgery of prescriptions.
 - (2) Obtaining of drugs via forged or altered prescriptions.
- 7 - Members of the Special Investigations Bureau shall maintain liaison with other municipal, State and Federal agencies concerned with vice/narcotics problems of importance to this Department. Members of the Special Enforcement Unit will also notify the patrol teams of changing trends and new developments in the areas of vice, narcotics, and organized crime.
- 8 - The Special Investigations Bureau shall be promptly notified of all reports listed in paragraph six that occur during its duty hours.

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- (a) At other times, the Patrol Watch Commander (or the Duty Command Officer in his/her absence) shall decide whether to notify an SIB member.
 - (b) Unavailability of an officer of the Bureau shall not preclude any member of the Department from taking necessary action if, in the opinion of the ranking officer on-duty, it is required.
- 9 - The SIB shall have sole responsibility during their duty hours for arranging medical care for narcotic addicts confined in the City jail and who are suffering withdrawal symptoms.
- (a) This does not relieve any officer of any responsibility specified in the jail regulations.

ADMINISTRATIVE NARCOTICS UNIT

- 10 - This detail is responsible for investigation, arrest and assisting the District Attorney's Office with the prosecution of major narcotics offenders, as well as gathering, analyzing, and disseminating appropriate information regarding narcotics related criminal activity. Duties shall include:
- (a) Providing support for both DTF and the Special Investigations Bureau by hand-carrying all SEU arrest reports to the District Attorney. The unit will provide feedback from the District Attorney's Office to officers regarding cases, which are charged or not charged, with emphasis on continually improving investigations and reports. The SEU Administrative Narcotics Unit will maintain records of all cases presented to the District Attorney's Office, and the number of cases charged/not charged.
 - (b) Developing a database of drug offenders.
 - (c) Developing organizational structure charts, as required.
 - (d) Interviewing arrested drug traffickers, as needed.
 - (e) Reviewing all narcotics-related police reports and, from there, prepare intelligence reports to better direct the energies of the DTF and the Special Investigations Bureau.
 - (f) Targeting/tracking drug traffickers.
 - (g) Coordinating with other City services in combating the drug problem.
 - (h) Coordinating the asset forfeiture effort. This entails tracking money and property through both State and Federal asset forfeiture proceedings, and coordinating efforts with the asset forfeiture units of the Alameda County District Attorney and appropriate federal agencies.

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- (i) Providing training within the Berkeley Police Department in the area of drug enforcement.
- (j) Investigating narcotics-related conspiratorial crime by organized gangs or groups individuals (organized crime). The term "organized crime" is, for our purposes, defined a group, sometimes involving the hierarchal coordination of a number of persons in the planning and execution of illegal acts, or in the pursuit of a legitimate objective by unlawful means, and achieving its primary goal of economic gains through the supplying of illegal goods and services. The Administrative Narcotics Unit shall be responsible for the initiation of investigations concerning organized criminal activities. Reports involving organize crime shall be routed to the SEU Administrative Narcotics Unit, which shall coordinate investigations involving the following activities:
 - (1) Loan sharking
 - (2) Labor racketeering
 - (3) Corruption/bribery
 - (4) Illegal sale and distribution of liquor, tobacco, and controlled substances
 - (5) Illegal gambling operations
 - (6) Pornography
 - (7) Firearms violations.
- (k) Managing the Department's narcotic evidence storage, testing and transfer to Court, as require.

REPORTS

- 11 - One copy of each police report referring to a real or suspected vice condition shall be forwarded to the SIB. One copy of each report involving the seizure of narcotics shall be forwarded to the Administrative Narcotics Unit.
- 12 - SIB confidential reports will be recorded in its special files set aside for this purpose.

EVIDENCE

- 13 - The Administrative Narcotics Unit shall have sole responsibility for the storage and destruction of all narcotics seized as evidence.

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When the destruction of narcotics becomes necessary, the unit shall prepare a numbered report and obtain a court order, listing all items of evidence to be destroyed and case numbers under which the contraband was originally seized.

INFORMANTS

- 14 - The following policies and procedures will be adhered to in the establishment, use and handling of informants by all officers of this Department:
- (a) Informant - defined: A person who, under the direction of a single officer and, with or without an expectation of compensation, furnishes information or performs a service for the Department in an investigation.
 - (b) Source of Information: An informant differs from a "source of information" in that the latter is not under the specific direction of a single officer and does not become a party to the actual investigation (e.g., a business firm furnishing information from its records, or a concerned citizen relaying information about an event that they have witnessed).

ESTABLISHMENT OF INFORMANTS

- 15 - Informants may decide to assist the Police Department for reasons other than those given above. The two most common are:
- (a) Defendant Informants - Similar to a "normal" informant, but subject to arrest and/or prosecution for a State or Federal case, who expects compensation for his/her assistance in the form of a recommendation to the Judge or prosecutor.
 - (b) Restricted-Use Informant - A person currently on probation, or parole who wishes to become an informant in exchange for a recommendation to their supervising agent. Restricted use informant should only be used with the consent of the agency supervising the subject.
- 16 - Juvenile Informants - It is the policy of this Department that juveniles not be used as informants under any circumstances. A juvenile may become a "source of information" as defined above, but under no circumstances are they to be compensated for their information, or function as an undercover police operative.

INFORMANT CRITERIA

- 17 - There are three criteria that must be met to establish an individual as an informant.
- (a) The person must be in a position to measurably assist the department in an investigation.
 - (b) The person will not compromise the Department's interest and activities.

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- (c) The person will accept direction.

REQUIREMENTS FOR INFORMANT USE

- 18 - The following requirements shall apply to the Department's development of defendant informants:
 - (a) The approval of the appropriate prosecutor (that is, Federal, State or local) will be obtained prior to seeking the cooperation of a defendant.
 - (b) A defendant may be advised that his/her cooperation will be brought to the attention of the appropriate prosecutor. No further representations or assurances may be given without approval. The prosecuting attorney shall have the sole authority to decide whether or not to prosecute a case against a defendant/informant.
 - (c) The appropriate prosecutor shall be advised of the nature and scope of the defendant's cooperation throughout the period of his/her use. The procedures and frequency of this reporting shall be set by the prosecutor.
- 19 - When the assistance that an informant provides to the Police Department goes beyond merely providing information and evolves into actual participation into the investigation, i.e., making introductions between officer and suspect, controlled buys of narcotics, etc., the informant must sign the Informant Understanding of Regulations form. This form will be attached to the informant sheet and filed in the appropriate SEU file.

CONFIDENTIAL INFORMANT FILES

- 20 - A Confidential Informant File will be maintained by the Special Enforcement Unit. The Administrative Assistant Informant form will be completed on all SEU informants, paid informants, informants from other Divisions (i.e., Patrol, D.B., etc.), or informants that are likely to be used to testify in a court action.
- 21 - Confidential informant files may be used by officers to aid them in establishing the reliability, or unreliability of an informant through past police contacts.
- 22 - The informant form will include, but is not limited to the following:
 - (a) Biographical and personal history information.
 - (b) Photograph.
 - (c) Criminal history, if any.
 - (d) Record of past information given; reliability of information.

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- 23 - Each informant will be given an informant identification number by the Administrative Narcotics Office. The informant will be given an identifying number from a sequential list maintained by the **Special Investigations Bureau Sergeant.*** Informant's files will be filed alphabetically in a secure cabinet within the SEU. The files will be kept under the control of the **Special Investigations Bureau.***
- 24 - An SEU investigator will be assigned to make an inquiry into all available files to determine if the informant has past contacts with any police agency under the status of an informant. The SEU investigator will then notify the officer submitting the informant sheet of the findings:
- (a) No prior contacts were found.
 - (b) The subject is considered reliable. (If possible, the officer will be provided the name of the agency/officer that used the subject in the past and any case numbers to help establish reliability).
 - (c) The subject is considered unreliable. Again, data supporting this conclusion will be supplied to the officer if it is available.
- 25 - Informant files will be purged only on approval of the SEU Lieutenant. There will be no time limit for retaining files.
- 26 - Access to the informant files will be limited to SEU personnel. An officer may be allowed access to an individual informant's file for the purpose of updating information in the file, i.e., change of address, to record any additional information the informant provided, etc.

GENERAL POLICIES - UTILIZATION OF INFORMANTS

- 27 - An informant shall be advised of the following:
- (a) He/she shall not violate criminal law in the furtherance of the gathering of information, or providing services to the Police Department and that any evidence of such a violation will be reported to the appropriate law enforcement agency.
 - (b) He/she has no official status, either implied or otherwise as an agent or employee of the Berkeley Police Department.
 - (c) The information that he/she provides may be used in a criminal proceeding and the Department will use all lawful means to protect the informant's confidentiality. However, this cannot be guaranteed.
- 28 - The case officer must control the direction of the operation and the informant. They must never place themselves in the position of having to take action when

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there is not enough staffing or equipment to insure the credibility of the investigation and the safety of all parties involved.

- 29 - The entire relationship and direction must come from the officer. It is not uncommon for the informant to attempt to become involved in planning. Informants will not be present at briefings.
- 30- Informants are assets of the Department, not a specific officer. At its discretion, the Department may reassign an informant to the control of another officer or another unit.
- 31 - Officer/informant contacts will be of a strictly professional nature. Social or business contacts beyond the scope of a specific investigation are expressly prohibited.
- 32 - Contacts with an informant will be such that his/her knowledge of the Department's facilities, operations, activities, and personal is kept to the minimum necessary to his/her successful utilization. Under no circumstances will an informant be brought into the Special Investigations Bureau Office.
- 33 - At least two officers should be capable of contacting an informant. WHENEVER PRACTICAL, two officers should be present at all contacts with the informant.
- 34 - All significant contacts with the informant, and all information obtained at these contacts will be documented in writing.
- 35 - Where an informant is to participate in an undercover purchase in which he/she may come in contact with either official funds, controlled substances, or anything else of potential evidentiary value, he/she will be thoroughly searched both before and after the encounter and, where possible, kept under continuous observation in between. The reason for this is to preclude questions as to the validity or integrity of the evidence.

COURTS AND INFORMANTS

- 36 - A police officer is not empowered to dismiss a case, or to grant immunity to anyone. The prosecuting attorney makes the decision whether to file a case or dismiss it. Individual officers will not approach members of the judiciary regarding informants unless specifically directed to do so. Correspondence with the courts will be initiated only after approval of the SEU Lieutenant has been obtained.

DISCLOSURE OF AN INFORMANT'S IDENTITY

- 37 - An informant shall be advised at the outset that the information he/she provides may be used in a criminal proceeding and that, although the Department will use all lawful means to protect the informant's confidentiality, this cannot be guaranteed.

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- 38 - The disclosure of an informant's identity, even when no prior guarantee of confidentiality was made, will be avoided whenever possible. Informant confidentiality will be thoroughly discussed with the prosecutor prior to the trial or other proceedings and other alternatives will be given full consideration.
- 39- In situations where the disclosure of an informant's identity might adversely affect the outcome of a more significant investigation, the Department may conceivably recommend dismissal of the immediate case. A decision of this nature may only be made by the Lieutenant in charge of the Unit, with the consent of the prosecuting attorney.
- 40 - If the issue of disclosure arises during an officer's testimony and he/she is uncertain of the legal requirement, he/she should request time to discuss the matter with the prosecutor.

UNRELIABLE INFORMANTS

- 41 - When the case officer becomes aware that an informant is not reliable, all contact with the informant should cease and the reasons should be noted in his/her informant file.

USE OF CONFIDENTIAL FUNDS

- 42 - As a general rule, defendant informants will not receive monetary compensation for their information or assistance.
- 43 - Any deviation of the above policy must be approved by the Lieutenant in charge of the Unit, prior to the payment or agreement to make payment of any funds.

INFORMANT FUNDS

- 44 - All confidential funds, whether for continuing operations or for a special operation, will be administered according to this procedure. These funds may be utilized to pay informants, purchase contraband, or otherwise maintain and finance undercover or investigative operations approved by the Chief of Police. It is the responsibility of the Lieutenant of the Special Enforcement Unit to maintain control and supervise all disbursements from the confidential fund assigned to his/her specific area of command.

DISBURSEMENT OF FUNDS

- 45 - All disbursement of funds require the expressed approval of the **SEU*** Lieutenant. Disbursements exceeding **\$100*** must be approved **in writing by the SEU Lieutenant*** prior to the money being paid out. The Chief of Police must approve all disbursements over \$750.

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- 46 - All disbursements will be recorded on the field expense account form in accordance with the established guidelines. The SEU Lieutenant will evaluate and approve each confidential fund expenditure form.
- 47 - **The SEU Lieutenant will not maintain an active expense account. If the SEU Lieutenant uses the SEU cash fund during an emergency, he/she should use an expense account form and have it approved and reviewed by the Division Commander.***
- 48 - **The Special Enforcement Unit Lieutenant will consider using purchase orders for goods and services prior to using the SEU case fund.***
- 49 - **The SEU Lieutenant will record each cash disbursement in the cash journal. This is to show the dollar amount of the on-hand case operating base and an accounting of the funds used.**

DOCUMENTATION OF CONFIDENTIAL FUND EXPENDITURES

- 50- The Special Enforcement Unit Lieutenant will maintain the field expense reports for the Special Enforcement Unit and a journal of the cash on hand. This cash disbursement journal is designed to provide the Unit Lieutenant and Division Commander with the dollar amount of the cash operating base that is currently on hand and an accounting of how past funds were spent.
- 51 - The SEU Lieutenant will insure that the journal of cash disbursements is kept up-to-date, and that the field expense account forms submitted (**by the fifth of each month**)* include the following:
 - (a) Date of transaction.
 - (b) Name of investigator/officer disbursing funds.
 - (c) Why the money was spent. To whom and for what include all related case numbers.
 - (d) Amount of expenditure.
- 52 - The Special Enforcement Unit will disburse funds via **cash*** to the officers requesting them. The officer will record the date on a Berkeley Police Department receipt for cash payment form, which shall contain the following items:
 - (a) The name of the person disbursing the funds
 - (b) Date of transaction
 - (c) Amount disbursed

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- (d) Reason for funds
- (e) Signature of officer receiving funds
- (f) Signature of person disbursing the funds and badge number.

CASH OPERATING BASE

- 53 - Whenever the cash on hand falls below the predetermined amount, the Special Enforcement Unit Lieutenant will prepare a cash expenditure package, which will consist of a City of Berkeley Statement of Expense form, a City of Berkeley Payment Voucher (FN024), **and a copy of the recent biannual internal reconciliation review signed by the Chief of Police. This package will be forwarded to the Chief of Police for final approval and signature.***
- 54 - Upon completion of the review and signature by the Chief of Police, the request package be forwarded to Personnel and Training for final processing and transmitted to the Auditor's Office for disbursement.
- 55 - **The original of the request package will be maintained by the Auditor's Office. The Special Enforcement Unit Lieutenant will retain the monthly expenses account sheets reflect all funds disbursed. All funds are disbursed by the Special Enforcement Unit Lieutenant in the form of cash. The record of all transactions is to be maintained for a period of not less than three years.**
- 56 - **The Chief of Police will review the SEU cash fund to insure that all cash disbursements are conducted in accordance to the written policies of the Unit. The Chief of Police, on a bi-annual basis, will conduct the review.***
- 57 - **The SEU cash accumulation shall not exceed \$6,000 unless approved by the Division Commander or the Chief of Police.***
- 58 - **Prior to the Special Enforcement Unit Lieutenant relinquishing responsibility as the cash fund custodian, the SEU cash fund should be reconciled. Any un-reconciled differences or errors should be reported to the Division Commander for appropriate resolution.***

GUIDE FOR PREPARATION OF INFORMANT EXPENSE REPORTS

- 59 - **This guide will be utilized to record and document expenditures of confidential funds paid to non-police informants for information or services rendered. The following information will be furnished in the spaces provided:**
 - (a) **List date and time money paid.**
 - (b) **List location of activity.**

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- (c) List informant number. No funds will be expended to informants until an informant sheet has been filed and confidential number has been established.
- (d) List the case number of the incident.
- (e) Amount spent in the appropriate section.
- (f) List purpose of expenditure, i.e., narcotics buy, meal for informant, informant fee, etc.
- (g) Complete certification that funds were spent in the furtherance of a police investigation and sign card.
- (h) The informant should then sign his/her name in the appropriate place. If the informant refuses to sign his/her correct name, the informant control number and a fictitious name may be inserted.
- (i) The case officer and a second officer (or in the absence of a second officer a supervisor) must sign witness section to verify informant received funds.
- (j) The expenditure form to the SEU Supervisor (via the monthly expense report) to be submitted by each officer in the Unit.

UNDERCOVER OPERATIONS

- 60- Due to the dangers associated with undercover operations, personnel involved shall take the following steps:
- (a) Meet to plan the operation, including tactical assignments of the officers and supervisors involved.
 - (b) Discuss communications in the event the plan is not working.
 - (1) This shall include agreement on verbal and non-verbal "trouble" or "emergency signs" and;
 - (2) A signal to communicate that the operation is concluded.
 - (c) Prepare a written operations plan.
 - (d) Place a reasonable time limit on the operation, if possible.
 - (e) Notify the on-duty Patrol Watch Commander and Communications Center personnel prior to beginning the operation when possible. In the event that no Patrol Watch Commander is on-duty, a Patrol Sergeant should be notified about the operation, when possible.

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References: CALEA Standards
General Orders C-63, D-1, J-1, P-65
Police Regulation 407
Special Order 88-26968, May 10, 1988;
Special Order 88-75273, December 19, 1988