

**TRINITY COUNTY GRAND JURY
2004-2005**

**JUDICIAL COMMITTEE
FINAL REPORT**

**REVIEW OF CITIZENS COMPLAINT AGAINST
LAW ENFORCEMENT OFFICIALS ENGAGED IN REVERSE
STING NARCOTICS INVESTIGATIONS**

**This Report was Approved
May 3, 2005**

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**REVIEW OF CITIZENS COMPLAINT AGAINST LAW ENFORCEMENT OFFICIALS
ENGAGED IN REVERSE STING NARCOTICS INVESTIGATIONS**

PURPOSE:

The Grand Jury is responsible for investigating and responding to citizen complaints regarding the operation of County governmental entities.

BACKGROUND:

1. This complaint was re-submitted to the 2004-2005 Trinity County Grand Jury as a continuation of the 2003-2004 complaint. Three 2003-2004 "hold-over" Grand Jury members that were familiar with the initial complaint, investigated the 1551 page court document which was again supplied to this Grand Jury. After extensive hours of research the 2004-2005 Grand Jury came to the same conclusion as the previous Grand Jury and therefore a large portion of that report is being used in our report.

The 2004-2005 Grand Jury received a citizen complaint requesting an Indictment/True Bill be brought against thirty two law enforcement officials/officers who authorized, supervised and/or participated in "Reverse Sting" narcotics investigations/operations targeting the manufacture and distribution of methamphetamine in Northern California, including Trinity County. Two reverse stings were conducted jointly by the California Department of Justice, Bureau of Narcotics Enforcement (BNE), and the Shasta Interagency Narcotics Task Force (SINTF). The complaint alleges that as a direct result of these reverse stings, over 130,000 doses of methamphetamine were introduced onto the streets of Northern California.

2. The complainants are blood relatives of at least one of these individuals who were principal targets of the 1995 reverse sting. From the sting, these three targeted individuals (Spruth, Spruth and Rowley) have each been convicted of multiple counts of possession of ephedrine and are currently imprisoned. Resulting from the 1995 investigations/operations, two Trinity County residents were apprehended convicted and incarcerated for attempt to manufacture, manufacture and possession with intent to sell methamphetamine.

3. (Extracted from the California Department of Justice, Division of Law Enforcement Policy and Procedure Manual, May 1992, (pertinent to BNE at the time of the 1995 reverse stings and unchanged in the March 2001 .Manual).

"Reverse Sting Undercover Operation"

"A reverse sting is a non-traditional investigative technique in which the undercover agent poses as a drug seller rather than a drug buyer."

"The express intent of a reverse sting is to neutralize significant drug violators when

other applicable traditional investigative techniques have proven ineffective."

"Criteria for the Use of Precursors"

"Precursors and chemicals may be furnished or sold to criminal suspects during clandestine laboratory investigations."

These substances should never be used in a manner in which they may chemically expose the public. In the event that precursors must be released to suspects to further the outcome of the investigation, every effort should be made to track the chemicals to determine their destination and identify the eventual lab site. This would require sufficient manpower and resources to ensure that law enforcement would maintain specific knowledge of their whereabouts.

4. The complainants allege that the reverse sting agents accepted money and goods (including illegal weapons and vehicles) rather than recovering all the methamphetamine as required by BNE policy and law.

5. Court records and court testimony was provided to prove: (In U.S. District Court, For the Eastern District of California, U.S. vs. Michael Spruth, Erwin Spruth and John Rowley, Case # CR. S-95-503 LKK, and CR. S-96-082 LKK) Between August 1, 1995 and October 13, 1995, the BNE/SINTF furnished/sold Spruth, Spruth and Rowley 102 and 1/2 pounds of ephedrine for the express purpose of manufacturing methamphetamine for sale. The end result, as much as 129,600 doses of methamphetamine were manufactured and, in all probability distributed and sold to the public.

BNE and SINTF Investigation Reports covering the period August 31, 1997 to December 30, 1997 (investigation #RE97-0090, Molko), were provided to show the continuing nature of reverse sting investigations/operations, which result in the sale of methamphetamine to the public in Northern California. This reverse sting resulted in the sale of methamphetamine to the public with quantities estimated between 2,076 and 3,137 doses.

JURISDICTION:

Two Trinity County residents who received ephedrine from Spruth, Spruth and Rowley were apprehended, tried, convicted and incarcerated for attempt to manufacture, manufacture and possession with intent to sell methamphetamine (People vs. Terry Vandergrift and Mary Vandegrift, Trinity County Superior Court Case, #96CR001).

STATUTE OF LIMITATIONS:

The last specific evidence of reverse sting investigations/operations activity presented was December 30, 1997 (Investigation #RE97-0090, Molko), thus exceeding the four-year Statute of Limitations. Once the Spruth, Spruth and Rowley case had been concluded, including the Appeals process, the U.S. District Court released funds that had been seized (\$55,000) to be dispersed back to law enforcement in accordance with established policy. The policy provides for 65% to be given to law enforcement, divided

according to organizational contribution to the seizure of funds. A disbursement form was presented showing that \$25,000 from the Spruth, Spruth and Rowley case was received by the SINTF on April 24, 2000, which according to the complainant, could be considered the last overt act, thus placing action by the Trinity County Grand Jury within the allowable four years.

METHOD OF INVESTIGATION:

Three members of the Grand Jury thoroughly studied all of the documents and court records submitted to support the Citizen's complaint, all 1551 pages. Legal assistance was sought from the Superior Court Judge, District Attorney and California Grand Jury Association, as well as California Senator, Diane Feinstein and California Assemblywoman, Patty Berg.

FINDING 1:

(Quoting from Chief Judge Emeritus, Lawrence K. Karlton, United States District Court, in his order on motion to dismiss based on outrageous government conduct, U.S. vs. Spruth, Spruth and Rowley, Order dated May 19, 1998.)

"It must be emphasized from the outset that this is not a case in which the government's conduct was such as to represent 'no danger of distribution.'¹ On the contrary, as much as a hundred thousand doses of methamphetamine were distributed. Nor is this a case in which law enforcement did not Violate any federal statute or rule or commit any crime in infiltrating the defendant's drug enterprise'. On the contrary, here the agents, at a minimum, aided and abetted the manufacture and distribution of methamphetamine, and given the fact that the agents received money rather than drugs, could properly be viewed as having conspired to manufacture and distribute methamphetamine, both being federal crimes. Moreover, it is not without significance that almost every aspect of the BNE's reversal policy designed to protect the public was treated with disdain."

"In this court's view the agents' loss of perspective led to outrageous behavior."

"It seems certain that the denial of the defendants' motion will simply send the wrong message to law enforcement. These law enforcement officers have demonstrated beyond peradventure of a doubt that they are focused exclusively on "the bottom line," and the bottom line in this proceeding is that the irresponsible behavior of these officers will have no consequences. It is the height of naiveté, to believe that the court's expression of concern will affect their conduct in any way."

RECOMMENDATION 1:

The Trinity County Board of Supervisors should adopt an ordinance making the use of "reverse sting" narcotic investigation illegal in Trinity County unless local law enforcement officials are first informed and also assured that illegal drugs will not be distributed to the public. If Trinity County has no authority to adopt such an ordinance controlling the practice of reverse stings in this county, perhaps an ordinance mandating our local law enforcement be notified prior to a sting and include an assurance the methamphetamine will not be distributed to the public.

FINDING 2:

The testimony within the trial transcripts and evidence presented raised a question whether monetary gain versus recovery of the methamphetamine produced became a priority during the reverse sting operations. One financial aspect was not fully addressed and remains an open question: What happened to the approximately \$2.6 million revenue from the street sale of 130,000 + doses of methamphetamine? And what happened to the BNE/SINTF profit gained by the sale or barter of 102 and 1/2 pounds of ephedrine @ \$1,000 per pound or its equivalent, and the pseudoephedrine sold to Molko?

RECOMMENDATION 2:

This should be investigated. The lab and the "bust" took place in Trinity County. In April of 2000, The U.S. District Court released seized funds that were generated in this county. Perhaps the Board of Supervisors should have the authority to adopt an ordinance to have some control over "reverse stings" that occur in Trinity County.

CONCLUSION:

Case law defines the Grand Jury as the "conscience of society." Acting in that capacity, this Grand Jury finds the illegal conduct of the officers/ officials in the 1995 and 1997 reverse stings chronicled in this complaint, to be completely shocking to the conscience of society. In each of these reverse stings preventable criminal enterprises were established and funded because the government provided precursor chemicals otherwise not easily available. The end result was that the public was poisoned with over 100,000 doses of methamphetamine, as well as toxic waste from the manufacturing process. Permitting such conduct merely to gather evidence and convict a few drug manufacturers is unthinkable. This Grand Jury finds that in the reverse stings targeting Spruth, Spruth, Rowley and Molko the officers/officials conduct was so excessive, flagrant and offensive as to violate constitutional limits and a universal sense of justice.

Every effort of this Grand Jury, as well as the efforts of the 2003-2004 Grand Jury to return a true bill of indictment in this investigation have been vigorously opposed by law enforcement and the government powers that be, (including, but not limited to, the Attorney General). Notwithstanding the monumental efforts to resolve this very serious complaint, we have run the gamut of all legal options and methods in an effort to prosecute this issue only to have ALL doors closed.

The 2004-2005 Grand Jury spent hundreds of hours researching the court documents and have come to the same conclusion as the 2003-2004 Grand Jury. We feel these deplorable actions must be stopped. We have gone to great lengths and a tremendous amount of work, to no avail. The response to our interview with the District Attorney was, "there were no criminal acts committed by the BNE agents in the reverse sting operations involving the Spruth brothers". The response from Bill Lockyer, State Attorney General, was that the previous Attorney General, Dan Lungren determined that "the agents had acted appropriately and concluded that their actions did not violate the law". The Grand Jury also wrote to California Assemblywoman, Patty Berg and California Senator, Diane Feinstein, seeking their advice. However, the Grand Jury was not awarded the courtesy of a reply from either Ms. Berg or Ms. Feinstein.

This is a very frustrating end to two years of work by both the 2003-2004 and the 2004-2005 Grand Jury.

<u>ENTITY</u>	<u>FINDING</u>	<u>RECOMMENDATION</u>	<u>RESPOND TO</u>
Trinity County District Attorney	1,2	1,2	60 days
County Counsel	1,2	1,2	60 days
Trinity County Sheriffs Office	1,2	1,2	60 days
Trinity County Board of Supervisors	1,2	1,2	90 days