

SUBJECT: DRUG INVESTIGATIONS
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GENERAL DRUG INVESTIGATIONS

Each Special Agent in Charge has the primary responsibility for enforcement of drug laws within his/her assigned geographical District except as noted below.

DIVERSION INVESTIGATION

- A. The Special Agent in Charge of the Diversion and Environmental Crimes Unit is responsible for investigating illegal transactions of Schedule II through V pharmaceutical drugs which also involve a member of the health care profession or institution, i.e., physician, pharmacist, nurse, hospital, or other registrant. This responsibility includes the management of the investigation, case assignments, and guidelines for operation.
- B. Investigations involving substantial quantities of diverted pharmaceutical drugs should be coordinated with the Special Agent in Charge of the Diversion and Environmental Crimes Unit or designee.

This procedure does not preclude District investigations into cases involving pharmaceutical drugs. Cases that would not require coordination with the Diversion and Environmental Crimes Unit office would include, but not be limited to, prescription forgeries, drugstore B & E's and sale or possession of limited quantities of Schedule II through V controlled substances.

- C. Any undercover investigation of a health care practitioner should be coordinated with and receive prior authorization from the Special Agent in Charge of the Diversion and Environmental Crimes Unit.
- D. Any investigation involving a drug or alcohol treatment facility should be coordinated with and receive prior authorization from the Special Agent in Charge of the Diversion and Environmental Crimes Unit.

REVERSE UNDERCOVER DRUG OPERATIONS

- A. In Reverse Undercover Drug Operations, and in accordance with the guidelines below, Agents lawfully engaged in the enforcement of the North Carolina Controlled Substances Act, North Carolina General Statute 90-86, et seq., and the Federal Controlled Substances Act, may offer to sell and subsequently produce a controlled substance with the intent to arrest the would-be purchaser/violator or violators once the purchase money has been produced or a conspiracy to violate

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the Controlled Substances Act has been established. A non-controlled counterfeit substance may be used as a substitute for the controlled substance in a reverse drug transaction. The same procedures outlined in this chapter will be adhered to.

- B. In accordance with the terms of General Statute 90-101 (c) (5), at no time will an Agent purposely provide any amount of any controlled substance to a would-be purchaser. It is important to note that neither North Carolina law nor Bureau procedure allow the furnishing of samples to would-be purchasers, an option available to Federal Agents conducting reverse type deals. Thus, a Bureau Agent should avoid working as the undercover operative in a Federal reverse operation. Because of the potentially sensitive nature of reverse type operations, the following guidelines should be strictly adhered to in seeking approval of any such operation:
1. Reverse deals are not to be considered unless the violators and the situation are of sufficient significance to merit the use of this special procedure. This is not envisioned as an alternative routinely available in drug investigations.
 2. An Agent requesting authorization for a reverse operation shall submit a written plan and/or justification to the appropriate Special Agent in Charge, who will evaluate the merit of the proposal. The plan should be detailed to include:
 - a. Description of violator or violators, criminal history, if armed, information to support drug dealing, etc.;
 - b. Date and location of proposed transaction to include complete description of location;
 - c. Law enforcement personnel involved in investigation. Plan should describe location of law enforcement personnel, indication they will be wearing clearly identifiable law enforcement clothing, marked vehicles utilized, take-down signal, etc.;
 - d. Amount of drugs and where drugs are to be obtained;
 - e. Contact with the appropriate District Attorney and United States Attorney by the Special Agent in Charge or Assistant Special Agent in Charge to determine whether the prosecutor has any objection to the proposed investigation and whether the prosecutor will prosecute any individuals arrested as a result of a reverse operation.

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- f. Local and Federal law enforcement agencies with jurisdiction will be notified of the proposed reverse investigation, unless a determination is made by the Special Agent in Charge of extenuating circumstances warranting they not be notified.
 3. Once approved, the Special Agent in Charge will forward the Agent's proposal to the appropriate Assistant Director for review and approval.
 4. Upon review and verbal approval, the appropriate Assistant Director will follow the verbal approval with written approval to the requesting Special Agent in Charge. The reverse undercover drug operation plan and the written approval will be filed per calendar year in a file entitled "Reverse Undercover Drug Operations." This file shall be maintained for a minimum of three years.
 5. The Director will be briefed on all reverse investigations.
 6. Since a reverse drug operation normally requires having a large quantity of controlled substance to complete the transaction, the Special Agent in Charge will assure all necessary precautions are taken to prevent any "rip-off." The Special Agent in Charge or a Assistant Special Agent in Charge will be present during the reverse operation.
 7. Raid planning procedures will be followed in all instances of reverse undercover drug operations as set out in the Policy and Procedure Manual, Procedure 22, Raid Planning.
- C. Controlled Substances To Be Used In Reverse Undercover Drug Operations
 1. Controlled substances to be used in reverse undercover drug operations will generally be obtained from earlier seizures. Retention and use should not conflict with any judicial orders for destruction. The agency should insure all controlled substances used in reverse operations are accounted for and authorized by appropriate court order or other documentation. A complete quantitative and qualitative analysis shall be performed on the substance by a crime laboratory. When feasible, controlled substances retained by the Bureau Crime Laboratory will be utilized in Bureau reverse drug operations. Controlled substances being held as evidence shall not be used in reverse operations.

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2. Once the controlled substance is received, the Case Agent will take adequate precautions to insure its security and safety. A chain of custody must be maintained. Handling of the controlled substance outside of secure storage should be kept to an absolute minimum.
3. The Special Agent in Charge will be responsible for the controlled substance being analyzed qualitatively and quantitatively by a crime laboratory each time it is removed from secure storage for use in a reverse operation. A complete analysis shall be required for all controlled substances used in a reverse operation, including those obtained from other agencies.
4. If packaging of a controlled substance is changed to facilitate utilization in an undercover capacity, all prior packaging, including seals and initials, shall be maintained according to evidence procedures.
5. After the controlled substance has been used, it shall be submitted to the laboratory for quantitative and qualitative testing according to Bureau procedures. The laboratory report will be filed with the investigative report.

BUY-BUST ARRESTS

- A. Buy-bust arrests are defined as the prearranged arrests of suspects at the time of delivery of contraband to an undercover Agent or officer. When the Bureau is involved in a buy-bust arrest a Assistant Special Agent in Charge or Special Agent in Charge will be notified of the expected arrest activity and will approve Bureau participation prior to any arrest.
- B. Raid planning procedures will be followed in all instances of buy-bust arrests as set out in the Policy and Procedure Manual, Procedure 22, Raid Planning

UNDERCOVER DRUG INVESTIGATIONS (Special Situations)

- A. When an Agent, while engaging in a Bureau investigation and acting in an undercover capacity, is placed in a situation the Agent perceives as "life threatening" if he/she does not ingest a controlled substance, and the Agent is forced to ingest any amount of the substance, the Agent shall immediately, at his/her first opportunity notify his/her Special Agent in Charge who shall determine the details of the incident and notify the appropriate Assistant Director. The Special

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Agent in Charge will assure that the Agent receives appropriate medical attention. The Special Agent in Charge will follow this up by a memorandum to the appropriate Assistant Director. The Agent involved in the undercover assignment will include the details of the incident in the appropriate investigative report. If the Agent is able to simulate the using of drugs without any ingestion occurring, it will only be necessary to document the simulation in the appropriate investigative report.

- B. When an Agent, while engaging in a Bureau drug investigation and acting in an undercover capacity, is placed in a situation the Agent perceives as "life threatening" if the Agent does not return a portion of the controlled substance to the suspect, and the Agent is forced to return any portion of the substance to the suspect, the Agent shall at the first opportunity notify his/her Special Agent in Charge who shall determine the details of the incident and notify the appropriate Assistant Director. The Special Agent in Charge will follow this up by a memorandum to the appropriate Assistant Director. The Special Agent in Charge should also immediately notify the appropriate District Attorney and U.S. Attorney of the incident. The Agent involved in the undercover assignment will include the details of the incident in the appropriate investigative report.
- C. When an Agent utilizes a non-sworn individual in an undercover role to make purchases of controlled substances, the Agent will:
 - 1. If prosecution of the purchase is anticipated, advise the non-sworn individual prior to the undercover activities that court testimony is a possibility.
 - 2. Search the non-sworn individual and the vehicle to be utilized by the non-sworn individual for contraband and monies immediately prior to and immediately following the undercover meeting.
 - 3. If possible, the non-sworn individual should be under constant surveillance between the searches.
 - 4. Record the denomination(s) and serial number(s) of any Special Funds and/or local agency funds furnished to the non-sworn individual for the purchase of contraband.
 - 5. If practical, require a body transmitter or tape recorder to be worn by the non-sworn individual during the undercover meeting(s) with the suspect(s).

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- a. If a body transmitter is utilized, the conversation will be monitored by an Agent/officer familiar with the details of the investigation to ensure the reliability of the non-sworn individual's future statements concerning the undercover activities.
 - b. If a tape recorder is utilized, the conversation will be reviewed by an Agent/officer familiar with the details of the investigation during the interview of the non-sworn individual to ensure the reliability of the non-sworn individual's statements concerning the undercover activities.
6. Interview the non-sworn individual immediately following the undercover meeting to determine the facts concerning the events that occurred during the meeting. This should include any statements made by the suspect(s) concerning the controlled substances and any statements about future events relating to the controlled substances (future buys, meetings, sales, etc.). Any controlled substances received by the non-sworn individual will be seized as evidence by the Agent/officer immediately following the undercover purchase.
7. Weigh and field test the controlled substance as soon as possible following the purchase. Weight should be compared with statements as to the weight of the substance purchased.

CONVOY DELIVERY

For the purpose of this section, a **Convoy Delivery** is a shipment of drugs being transported, or to be transported, by mobile conveyance, which is intercepted by local, state or federal law enforcement officers inside or outside the State of North Carolina, and is destined within the State of North Carolina. These shipments generally fall into two categories:

- A. The shipment was received on consignment by law enforcement officers, or person acting under their control, for delivery to persons in the State of North Carolina. (An example would be a cooperating person or witness was recruited to transport a shipment of drugs from Texas to North Carolina.)
- B. The shipment was intercepted by law enforcement authorities, and the person in control of the shipment cooperates and agrees to make a controlled delivery of the

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shipment to persons in the State of North Carolina.

The responsibilities of the district initiating the information regarding the “convoy delivery” will be as follows:

1. Assign an agent to lead the investigation.
 2. Notify the Assistant Director in Charge of Field Operations, prior to any such delivery being made.
 3. Notify each district in the State of North Carolina of the pending delivery, who will in turn assign a contact person.
 4. Notify the Special Response Team (SRT) for possible deployment.
- C. Unless the investigation is part of an ongoing investigation, the case agent will be assigned by the district where the shipment of drugs is delivered.
- D. If the convoy continues outside of North Carolina. Bureau agents may provide surveillance only until law enforcement from that state arrives on the scene.

CLANDESTINE LABORATORY INVESTIGATIONS

Refer to the Clandestine Laboratory Manual maintained in each District/Section/Unit Office.

STATE GRAND JURY INVESTIGATIONS

For the purposes of this section, a State Grand Jury Investigation is a conspiracy investigation focusing on Drug Trafficking, and/or Continuing Criminal Enterprise, which is enhanced by the powers of the Investigative Grand Jury. This includes, but is not limited to serving subpoenas, acting as an officer of the Investigative Grand Jury, compelling uncooperative witnesses to testify, in addition to regular investigative responsibilities.

INITIATION

- A. The District Attorney or his designee must agree to initiate and coordinate the State Investigative Grand Jury.

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- B. The Investigative Grand Jury must meet the Statutory requirements set forth in G.S. 15A-622, which provides that an Investigative Grand Jury may be convened only when the District Attorney:
 - 1. Alleges the commission of, or a conspiracy to commit, a violation of G.S. 90-95(h), or G.S. 90-95.1;
 - 2. Identifies persons who have knowledge related to the identity of the perpetrators and will not divulge that knowledge voluntarily, or who request that they be allowed to testify before the Investigative Grand Jury; and
 - 3. Has probable cause to believe that specified crimes have been committed and reasonable grounds to suspect that identified persons have knowledge related to the identity of the perpetrators.
- C. The Special Agent in Charge must approve a State Investigative Grand Jury, after he/she confers with the Assistant Director of Field Operations.

DUTIES AND RESPONSIBILITIES OF ASSIGNED AGENTS

The duties and responsibilities of Agents assigned to a State Investigative Grand Jury are as follows:

- A. Serve subpoenas and other court documents;
- B. Assist the District Attorney and Grand Jury with witness coordination and security of the Investigative Grand Jury;
- C. Handle physical evidence and transcripts from the Investigative Grand Jury; and
- D. Comply with Bureau procedure regarding report writing and evidence handling.

DUTIES AND RESPONSIBILITIES OF CASE AGENTS

The duties and responsibilities of the Case Agent in an Investigative Grand Jury investigation will be to:

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- A. Assume investigative leadership;
- B. Ensure compliance with reporting and evidence handling procedures;
- C. Ensure that served subpoenas are returned to the Clerk of the North Carolina Supreme Court;
- D. Provide quarterly summary of Grand Jury activities to the District Special Agent in Charge and to the appropriate Assistant Director.

RESPONSIBILITIES OF THE SPECIAL AGENTS IN CHARGE

In State Investigative Grand Jury Investigations, the Special Agent in Charge will be responsible for:

- A. Ensuring compliance with Bureau policy and procedure;
- B. Providing the appropriate Assistant Director with progress reports; and
- C. Assuming operational responsibility and working directly with District personnel to maximize efforts.

RESTRICTIONS ON AGENTS ASSIGNED TO STATE INVESTIGATIVE GRAND JURY INVESTIGATIONS

- A. Agents are not to reveal the names or identity of witnesses or evidence presented before the Investigative Grand Jury to anyone except Investigative Grand Jury Officers, the District Attorney or persons authorized by the District Attorney.
- B. Agents are not to reveal the existence of the Investigative Grand Jury to unauthorized persons.
- C. Agents will not allow unauthorized persons to view Investigative Grand Jury transcripts or evidence.
- D. Agents will not serve an Investigative Grand Jury subpoena in the presence of anyone else except authorized persons.

CASE ORGANIZATION AND MANAGEMENT

Due to the complexity and voluminous amount of information which is accumulated in a State Investigative Grand Jury

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investigation, the case report should be indexed into several different notebooks. An exact duplicate of the indexed case file should be made, and regularly updated for the prosecuting attorney. This is done to enable the prosecutor and investigating officers to file and retrieve information for the investigation, indictment and prosecution of defendants. A computer database, or spreadsheet program, should be utilized to maintain the index.

It is recommended that the Investigative Grand Jury case file be indexed in the following manner. However, the case agent has the option of organizing the case in a different manner at the preference of the agent or prosecutor.

A. Notebook A

This notebook contains all interviews, statements of witnesses, surveillance notes, financial information reports, and other miscellaneous reports not included in other notebooks. Each page should be sequentially numbered (A-1, A-2, A-3, etc.) as they are placed into the notebook. A constantly updated index should be maintained listing page numbers and a description of each report as it is entered into the notebook. This index should be computerized, if possible, by subject, date and page numbers.

B. Notebook B (Evidence Log)

Notebook B contains a copy of all items of evidence gathered by the investigators during the investigation. This could include telephone tolls, motel records, undercover tapes, tape transcripts, as well as other items of evidence.

The evidence itself is maintained in separate packets with corresponding evidence item numbers and kept under the control of the case evidence custodian. For each item of evidence, an evidence log sheet must be completed and filed sequentially in Notebook B, along with a copy of the item.

Audio tapes should be copied with working copies filed. The evidence log sheet includes all information necessary for Form SBI-69A and Form SBI-69B Forms, including a description of the item, chain of custody and

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a space for final disposition. A copy of the evidence log sheet should be attached to each item of evidence for quick access. A constantly updated index should be maintained in Notebook B for quick reference and should be computerized, if possible.

C. Notebook C

Notebook C contains copies of all previously obtained relevant criminal investigative reports dealing with the target(s) and associates. This includes prior or ongoing undercover cases involving various suspects and targets.

Pages in Notebook C should be numbered sequentially, in similar fashion to Notebook A.

An index of page numbers and corresponding case numbers should be maintained for easy reference by prosecutors and investigators.

Undercover drug purchases and searches related to the Investigative Grand Jury investigation which result in the seizure of controlled substances should be reported in a separate Bureau drug investigative case file. A copy of the separate drug investigative case file should be included in Notebook C.

Note: If the case agent and prosecutor prefer, reports and documents described above may be included and indexed in Notebook A, rather than a separate Notebook C.

D. Notebook D

Notebook D contains transcripts of all Investigative Grand Jury testimony. The transcripts should be entered into Notebook D in the order of the witnesses' testimony and each page sequentially numbered.

An index should be maintained and included in this notebook for quick reference by the District Attorney and investigators.

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E. Notebook E (Optional)

Notebook E contains a series of incident reports which have been compiled by investigators or analysts from Notebooks A, B, C, and D to summarize specific events in the conspiracy. The incident reports name defendants, witnesses, and available evidence for each specific incident.

The incident reports include notebook and page number(s) for each related witness as well as notebook and item numbers for each related item of evidence needed to corroborate the facts of the incident.

Prior to the indictment, a file should be made for each person listed on any incident report as a suspect and should include a copy of each incident report related to each suspect in the file.