U.S. Department of Justice
Office of Justice Programs

Bureau of Justice Assistance

Disclosing Hidden Assets: Plea Bargains and Use of the Polygraph

5th in a series

POLICE EXECUTIVE RESEARCH FORUM

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Disclosing Hidden Assets: Plea Bargains and Use of the Polygraph

Wanda G. Bryant

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U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

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U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

ffice of the Director

Washington, D.C. 20531

Dear Colleague:

Illicit drug traffic continues to flourish in every part of the country. The cash received by the traffickers is often converted to assets that can be used by drug dealers in ways that suit their individual tastes. Since 1981, federal authorities have increased their attack on these assets through both criminal and civil forfeiture proceedings with remarkable success. The recent passage and use of state asset forfeiture laws offers an excellent means for state and local jurisdictions to emulate the federal success.

The Bureau of Justice Assistance (BJA), in the Office of Justice Programs, has funded a nationally focused technical assistance and training program to help state and local jurisdictions facilitate broader use of such laws. BJA selected the Police Executive Research Forum to develop and administer this program because of its history of involvement in practical, problem-oriented research to improve police operations and the Forum's central role in developing training materials for use by police agencies and chief executives.

As part of this project, the Forum has contracted with experts in the area of asset forfeiture and financial investigations to prepare a series of short manuals dealing with different concerns in the area of asset forfeiture. We hope these manuals help meet the rapidly unfolding needs of the law enforcement community as more and more agencies apply their own forfeiture laws and strive to learn from the successes and problems of their peers.

I welcome hearing your comments about this program. We have structured this project so that most requests for information or assistance can be handled through the Forum staff in Washington, D.C., by calling 202/466-7820.

Sincerely yours,

Charles P. Smith, Director
Bureau of Justice Assistance

Acknowledgments

We are grateful to the staff of the Criminal Division, U.S. Department of Justice, Washington, for their review of drafts of this paper and for their identification of cases where polygraphs were used to uncover hidden assets. We also appreciate the assistance provided by the New York State Office of the Special Prosecutor for Medicaid Fraud, which provided the detailed interview instrument on undisclosed assets.

The Police Executive Research Forum

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Polygraph Use in Plea Agreements to Facilitate Defendant Disclosure of Hidden Assets*

As the number of criminals involved in drug trafficking and racketeering enterprises grows, and as illegal profits and assets multiply, investigators look for additional ways to deal with the increasingly sophisticated means by which those profits and assets are concealed.

Often, neither the best investigations nor the most discreet surveillance will reveal the more lucrative assets derived from criminal enterprises. Financial investigators and analysts examine scores of records and documents in attempts to determine a subject's financial picture but are frequently unable to ascertain whether such documents depict assets subject to forfeiture.

The essence of using the polygraph in asset plea bargaining is to establish the existence of assets through an additional means of investigation. Some asset information is always obtained in the preindictment stages of an investigation. However, as every good investigator knows, the full story is rarely disclosed. Instinct and experience indicate that more assets are often derived from a particular drug operation than are currently revealed by a defendant. But neither the location nor the exact form—i.e., real estate, cash, jewelry, securities, etc.—is known to the investigator. An individual subjected to a polygraph test is likely to divulge such information. Given an appropriate incentive in a favorable plea bargain, a defendant is more likely to divulge all coconspirators, their assets, and any assets that he or she has secreted.

* This paper is not intended to be an exhaustive treatment of the law on plea bargaining or of the law relating to polygraph tests and their results. It does, however, discuss how those two ideas merge into a pragmatic investigative tool for use by law enforcement.

Following aggressive investigation and skillful negotiation a carefully drafted plea arrangement in which a defendant agrees to submit to a polygraph test and to surrender for forfeiture assets under his or her control can accomplish much more in less time and with less expense than a criminal trial or a forfeiture proceeding.

After briefly providing basic information on asset forfeiture, plea bargaining, and polygraphs, the balance of this paper describes how the coordinated use of plea bargaining and polygraph testing can enhance investigative results by improving the prospects of efficient and effective asset forfeitures.

General Observations on Asset Forfeiture

Asset forfeiture and seizure laws were used sparingly until strengthened by Congress in 1984.[1] That revision made the seizure and forfeiture of assets easier in some respects. But legal problems that arise in any given lawsuit still exist in a forfeiture proceeding. There are many stages in a judicial proceeding between the issuance of a warrant for seizure and the final judgment of forfeiture, and each stage is imbued with legal pitfalls.

Property that may be subject to seizure must first be located, seized, and brought within the jurisdiction of the court before forfeiture proceedings can begin. General due process considerations require proper notice and proper seizure.[2] Also, the legality of a seizure may be challenged by a claimant in a motion for a return of property.

Even after a valid forfeiture, a claimant may petition the court for remission or mitigation and obtain possession of the property.[3] This kind of outcome can cause the most seasoned investigator and prosecutor to become cynical and discouraged.

However, a well-drafted plea agreement eliminates not only the uncertainty of a criminal trial but also many of the precarious steps involved in an asset forfeiture proceeding.

Plea Bargaining and the Investigator

The constitutionality of plea bargaining was officially sanctioned for the first time in 1970.[4] Since then, some of the suspicion and skepticism surrounding the practice has been removed. Today, prosecution and defense can enter into negotiations and work toward reaching an agreement that is mutually beneficial. In the ideal plea bargain everything is disclosed, everyone understands the deal, and everyone knows the consequences of not following through.

Generally, plea bargaining is an extremely efficient means of disposing of cases. More than 75 percent of convictions are based upon pleas of guilty.[5]

Courts have placed the burden on government prosecutors to ensure that defendants know and understand the contents of a plea arrangement. When a person enters a guilty plea, he or she is doing more than admitting criminal conduct. The defendant is waiving his or her constitutional right to trial by judge or jury. Therefore, a guilty plea must be entered voluntarily and knowingly.[6]

Contingent Plea Agreements

Often contingent plea agreements are entered into whereby a defendant agrees to plead guilty and cooperate with the government with an expectation of leniency at sentencing. This contingent arrangement is found very often in drug cases. A common example would be a case in which the defendant is the beneficiary of a plea agreement and therein promises to disclose information to law enforcement and give testimony for the government.

Such agreements should be drafted very carefully. Because there is some risk of perjury, open-ended contingency plea agreements have the potential to jeopardize valuable due process rights of criminal defendants. At least one court has held, with caution, that where the ultimate sentence to be recommended depended on the value or benefit of the witnesses' cooperation, the risk of perjury was not so great as to endanger

the defendant's constitutional rights.[7] Each provision should be fully explained, for it is the government's duty to insure that all parties have a clear understanding of the agreement.

Contingency pleas should be used sparingly—only in cases where there is a great likelihood that the subject's knowledge is extensive.

Benefits of the Bargain

Until recently, defendants had the most to gain from a plea bargain. But now that statutes allow the forfeiture of huge sums of money, personal property, securities, and real estate, the government also has much to gain and has reason to challenge a defendant's failure to abide by the terms and conditions of a plea bargain in asset forfeiture cases.

In *United States* v. *Baldacchino*[8] the court found that the defendant did not keep his plea bargain promise to cooperate with the government by giving truthful statements, therefore the government did not forfeit the plea bargain by reindicting the defendant.

In *United States* v. *Reardon*,[9] a case decided by the 10th Circuit Court of Appeals in March of 1986, the government was allowed to revoke its plea agreement where the defendant "failed to provide the government with a full and truthful accounting of his knowledge of the use and trafficking in cocaine".[10]

The court refused to require specific performance by the government in *United States* v. *Donahey*,[11] where the plea bargain agreement was to allow the defendant to plead guilty to a misdemeanor cocaine violation and the defendant failed to live up to her end of the bargain.

It is apparent from these cases that the courts will sanction the government's attempts to negotiate reasonable plea bargains that enhance the administration of justice. In fact, in *United States* v. *Alessi*,[12] the court construed a plea bargain to be in favor of the government and refused to allow a defendant to use the plea bargain to prevent his prosecution in a separate action. Alessi had been indicted for conspiracy to violate

federal narcotics laws and participation in a continuing criminal enterprise. After extensive negotiations between the Strike Force attorney and Alessi's attorney, Alessi entered a plea of guilty to one count of conspiracy in return for a guarantee that he would not be prosecuted for any additional acts arising from that "conspiracy or any overt act contained in that conspiracy".[13] Alessi was subsequently indicted for tax evasion, and argued that it constituted double jeopardy to prosecute him for that offense. The court disagreed, finding that the prosecution for tax evasion was not barred by the earlier plea bargain because the evidence necessary to prove a narcotics conspiracy was not the same as the evidence required to prove tax evasion.

Alessi should be distinguished from In Re Arnett.[14] In the Arnett case, the Government breached the terms of the plea agreement by filing a complaint for forfeiture of a defendant's house and farm when the oral understanding of the parties limited the government to forfeiture of $3,000 found on his person at the time of arrest.

The general trend appears to be that the courts are upholding reasonable plea bargains. However, breach of such an agreement, especially by the government, is not taken lightly. Additionally, breaches are being dealt with differently by the courts depending on which party has broken the agreement. For example, breach of the agreement by the government may result in specific enforcement of the agreement,[15] while a breach by the defendant may result in the court refusing to order specific performance,[16] leaving the government free to charge the defendant in additional indictments or to proceed to trial and sentencing without concessions.

Should Investigators Initiate Plea Negotiations?

Investigators must recognize that, legally, plea negotiations are between the prosecutor and the defendant or defendant's counsel. The courts have strictly construed plea bargains to be in the favor of the defendant. Therefore, when a promise is made to induce someone to plead and the person does so

based on that promise, courts have ruled that the promise must be upheld.[17]

Promises made by government attorneys and DEA agents are seen as interchangeable under the law. For example, at least one federal court has held that "[t]here can be no distinction between promises made by prosecutors in the Attorney General's office and promises made by agents of the Drug Enforcement Administration."[18]

Thus, use of caution is extremely important when criminal investigators and law enforcement officials interview suspects and defendants. Further, authorization to enter plea negotiations should always come from the prosecuting attorney. Even though promises by agents and investigators have been strictly enforced by the courts, an unauthorized promise could seriously jeopardize the government's position.

Polygraph Admissibility and Reliability

The search for truth has always been a basic tenet of responsible law enforcement. Criminal investigators have used hypnosis, truth serum (sodium pentothal or sodium amytal), and other measures in their pursuit of the truth. But the truth test used most often is the polygraph or lie detector test.

Today, the polygraph is regarded as somewhat more reliable than in the past. Nevertheless, prevailing law in state and federal courts disallows the results of polygraph tests in court absent stipulation to the contrary.[19] Also, generally not admissible is introduction of evidence regarding a defendant's willingness or refusal to take a polygraph.[20]

The judicial and legislative arguments regarding the reliability of the polygraph continue. Meanwhile, many scholars and psychologists estimate the accuracy of the polygraph procedure at 90 percent.[21] Such professional evidence of reliability puts the polygraph at the forefront of mechanical methods to obtain the truth. But while the value of the polygraph as an investigative tool has been known for a long time, its use to uncover hidden assets is nevertheless a somewhat novel concept.

Using the Polygraph in Plea Agreements

The President's Task Force on Drugs was the first to use the polygraph test to determine assets.[22] Polygraph testing became a vital part of plea negotiations when the Task Force determined that defendants were not being honest with the government regarding their drug activities and holdings. Testing in this manner proved to be very successful and turned up a great deal of information on assets. Since then, polygraph testing has been used consistently by most federal and some state and local authorities in uncovering hidden assets.

Importance of a Properly Worded Plea Bargain

Though not responsible for preparing plea agreements, investigators should be aware of what constitutes a properly worded plea. Plea bargains should be drafted very carefully for maximum advantage to all sides. The language of the plea should require the defendant to submit to the polygraph test "to the satisfaction of the government," as opposed to requiring the defendant to "take and pass the polygraph." This requirement is necessary because the polygraph test is not always as objective as it may seem. The results are often "inconclusive," yet the test may have revealed enough information to satisfy the government.

That the courts are not allowing results of the polygraph examination as evidence absent a stipulation by both parties should not prevent the use of polygraph in plea negotiations, because the use of the polygraph in this manner will seldom be an issue subject to litigation. This matter can be viewed in several different ways:

1. The defendant takes the polygraph test as agreed and passes the test, the government therefore upholds its end of the bargain.
2. The defendant takes the polygraph test as agreed and fails, a problem arises.
3. The defendant takes the polygraph test as agreed and the results are inconclusive, a problem arises.

In example 1 above, all parties are satisfied and the plea bargain is successfully executed. In examples 2 and 3, the language of the plea agreement will determine whether the defendant will be presumed to have breached the plea agreement.

If the language in example 2 reads that the "defendant is to *take and pass* a polygraph examination," failure to pass could be considered a breach. But, if the language reads that the "defendant is to *complete* a polygraph examination to the satisfaction of the government," failure to pass may not be considered a breach if the defendant otherwise gave substantial information.

Regarding example 3 above, an inconclusive polygraph examination could result for any number of reasons. Therefore, such an outcome would probably not be considered a breach of a standard plea agreement requiring that the defendant "complete" as opposed to "pass" the examination.

Consequently, the only issue subject to litigation would be interpretation of the language of the plea. The language of the plea bargain, whether oral or written, would be admissible in court to determine whether specific performance of the plea should be granted. The courts have allowed the language of plea bargains to be admitted into evidence when the contents of the plea bargain were collateral to the issue at trial. See e.g. *United States* v. *Bersten*[23] and *Martin v. United States*.[24]

The possibility of the plea agreement being used as a court exhibit makes it even more imperative that the plea agreement is carefully worded to reflect the understanding of the parties. A well-drafted plea agreement should include the following:

- A statement of the defendant's agreement to cooperate with federal (and/or state and local) authorities.
- A statement of the defendant's agreement to submit to debriefings by authorities.
- A statement of the defendant's agreement to provide voluntarily any physical evidence requested; i.e., books, papers, documents, etc.
- A statement of the defendant's agreement to provide truthful testimony if necessary, before grand juries, at trials, and in other proceedings.

- A statement of the defendant's agreement to waive venue (for purposes of trial and/or sentencing).
- A statement of the defendant's agreement to submit to a polygraph examination to identify others involved in drug conspiracies and racketeering; to identify any assets and conveyances; and to surrender for forfeiture assets and conveyances within defendant's control, including stocks, bonds, certificates of deposit, business interests, real and personal property.

See Attachments 1 and 2 for sample plea bargains, the latter being the more detailed.

What Investigators Should Know About the Asset-Oriented Polygraph Test

The polygraph examiner must obtain from investigators a detailed account of the defendant's asset picture prior to testing. However, some jurisdictions use only an asset affidavit (see Attachment 3)[25] and require a defendant to swear to the truthfulness of the answers as a part of the asset plea bargain.

While the financial affidavit is a useful instrument to employ in lieu of the polygraph, it could more efficiently be used in addition to the polygraph. The information contained in the affidavit could be used to formulate questions for the polygraph examination. Therefore, it is advisable to use an asset affidavit in addition to the polygraph test as a part of asset plea negotiations.

The polygraph test questions must be carefully worded as there are, approximately, only four relevant questions on which an examiner can test during a given procedure.[26] Pursuant to the terms of the plea bargain an examiner will have to perform two sets of tests in the typical drug smuggling case: a test for identification of people involved in smuggling operations; and a test for assets.

An examiner must be prepared to perform up to 15 hours of testing.[27] This considerable amount of testing is sometimes necessary in order to obtain anything of value.

A polygraph examiner must look carefully at the asset picture and the subject being tested, realizing that concessions sometimes must be made to obtain the information being

sought. For example, in responding to the question "Are you withholding any information regarding this narcotics case?" a defendant usually will not want to implicate his wife or brother or other close family member, so the test will show deception. However, it is impossible for the examiner to know the reason for the deception. When a potential problem of this type exists, inclusion in the plea agreement of language such as the following may be necessary: "Defendant agrees to provide full and truthful information regarding the involvement of others in narcotics trafficking; however, it is not necessary to divulge any information regarding immediate family members."[28]

If the defendant appears more willing to provide information to the polygraph examiner than to the case investigator, the examiner should try to obtain such information as the following:

- The price of a unit of drugs.
- Number of units sold.
- Real estate transactions, if any, that have taken place since the drug trafficking began.
- Vehicles or other conveyances, if any, that have been purchased.
- Significant items of personal property, if any, that have been purchased.
- Information, if any, that the person has on the existence or location of bank accounts, safe-deposit boxes, securities, etc.

Polygraph examiners have standard waiver-of-Miranda-rights[29] forms that subjects are required to read and sign before submitting to the polygraph test (see Attachment 4).[30] Subjects are also requested to sign consent forms (see Attachment 5).[31] Those documents should be properly executed prior to the polygraph test procedure, in case the defendant breaches the agreement. (In certain limited circumstances, information obtained during the testing procedure—as opposed to the actual polygraph test results—may be admissible in a subsequent criminal trial or civil forfeiture proceeding.)

Investigators and/or examiners may wish to consider advising drug defendants that they may be subject to an obstruc-

tion-of-justice charge under 18 USC Section 2232 or any similar state statute if they destroy or remove property to prevent a seizure. This should serve to expedite full asset disclosure. Prosecution under this statute could result in a $2,000 fine and imprisonment for one year. While this penalty may not greatly affect a defendant facing more serious criminal charges and fines, it should be of great concern to attorneys who knowingly hold drug money for defendants and to other persons who knowingly assist defendants in secreting assets.

Results of the Plea Bargain/Polygraph Approach

Once the plea bargain has been reached and the defendant takes a polygraph test regarding additional drug defendants, drug operations, and/or assets derived by those defendants from those operations (see Attachment 6), more often than not substantial disclosures will be made during the test. For example, hidden assets that were uncovered through the use of the polygraph by the South Carolina Division of the President's Task Force on Drugs included money (including a single $100,000 cache), jewelry, farms, orange groves in Florida, and real estate in Venezuela.[32]

Seizure and forfeiture of assets of that nature and value will more than subsidize the cost of maintaining an asset forfeiture capability. Any state or local asset seizure and forfeiture capability can be designed to be as effective as that of the President's Task Force on Drugs. The additional time and effort required to perform a well-executed polygraph examination will pay for itself many times over because of the amount of assets eventually forfeited as a result of those polygraph examinations.

Therefore, as the carefully drafted plea agreement calls for defendants to forfeit or surrender drug assets or assets purchased from the proceeds of drug sales, the defendants will be required to release possession and title or risk the consequences of breaching the plea bargain. Obtaining assets under these circumstances results in a tremendous windfall to the government without the time, money, and uncertainty attendant to civil forfeiture or criminal trial or both.

Conclusion

The use of the polygraph in negotiating asset plea bargains is a fairly unique concept. As such, it is not currently subject to much litigation. Because of the history of the courts in upholding plea bargains that comport with due process and a fair and proper administration of justice, there is no reason to forecast disparate treatment of asset plea bargains involving polygraph tests.

Assets that are the fruits of the drug trade should be seized and forfeited to provide a disincentive to anyone who considers drug trafficking. If a defendant is to be a witness, determination of the extent of his or her assets is important and is necessary to insure that the potential witness is not a straw party holding millions of dollars in assets.

The polygraph alone is a powerful investigative weapon. A plea bargain is a terrific case management device. Together they are a devastating team, capable of mounting the type of financial/economic attack on drug profits and assets that make them the ultimate nemeses of the drug trafficking and racketeering trades.

Endnotes

1. Harry L. Myers and Joseph P. Brzostowski, *Drug Agent's Guide to Forfeiture of Assets* (rev. by William M. Lenck, Washington: Drug Enforcement Administration, 1987), p.1.

2. U.S. Const., amend. XIV.

3. 28 C.F.R. Section 9.5.

4. *Brady* v. *U.S.*, 397 U.S. 742 (1970).

5. See John A. Glenn, "Supreme Court's Views as to Plea Bargaining and Its Effects", 50 *L Ed* 2d 876, n. 4.

6. *In Re Arnett*, 804 F.2d 1200 (11th Cir. 1986).

7. *U.S.* v. *Dailey*, 759 F.2d 192 (1st Cir. 1985). *See*, however, *State* v. *Glosson*, 462 So. 2d 1082 (1985) where the Florida Supreme Court held that under the due process clause of that state's constitution it was improper to pay an informant to set up drug transactions and then testify in the subsequent criminal prosecutions. *See* also *Hunter* v. *State*, 44 CrL 2045 (Fla. Ct. App. 1988).

8. [Case names cited in text.] 762 F.2d 170 (1st Cir. 1985).

9. [Case names cited in text.] 787 F.2d 512 (10th Cir. 1986).

10. Id. at 513.

11. [Case names cited in text.] 529 F.2d 831 (11th Cir. 1976).

12. 536 F.2d 978 (2d Cir. 1976).

13. Id. at 981.

14. 804 F.2d 1200, (11th Cir. 1986).

15. In the following cases, the court granted specific enforcement upon the government's breach: *Butler* v. *State*, 228 So.2d 421 (Fla. 1969); *Petition of Geisser*, 554 F.2d 698 (5th Cir. 1977); *Santobello* v. *New York*, 404 U.S. 257 (1971); *In Re Arnett*, 804 F.2d 1200 (11th Cir. 1986).

16. In the following cases the court refused to grant specific performance by the government upon the defendant's breach: *U.S.* v. *Baldacchino*, 762 F.2d 170 (1st Cir. 1985); *U.S.* v. *Calabrese*, 645 F.2d 1379 (10th Cir. 1981); *U.S.* v. *Donahey*, 529 F.2d 831 (11th Cir. 1976); *U.S.* v. *Reardon*, 787 F.2d 512 (10th Cir. 1986).

17. 404 U.S. 257 (1971).

18. *U.S.* v. *Barrett*, 390 F.Supp. 1022, 1024 (D.C.S.C. 1975).

19. The following cases have held the polygraph admissible: *U.S.* v. *Hart*, 344 F. Supp. 522 (E.D.N.Y. 1971); *State* v. *Watson*, 115 N.J. Super. 113, 278 A. 2d 543 (1971); *Walther* v. *O'Connell*, 339 N.Y.S. 2d 386 (1972); *Matter of Stenzel: A.* v. *B.*, 71 Misc. 2d 839 (1972). The following cases have held the polygraph inadmissible: *Dean* v. *State*, 325 So. 2d 14 (Fla. App. 1975); *Craven* v. *Craven*, 533 S.W. 2d 372 (Tex. Cir. 1975); *Crawford* v. *State*, 321 So. 2d 559 (Fla. App. 1975).

20. *U.S.* v. *Bersten*, 560 F.2d 779 (7th Cir. 1977).

21. "Legislative Analysis: The Polygraph Controversy," *The Police Chief*, November 1987, p. 62.

22. Observations of Pete Logan, former polygraph operator for President's Task Force on Drugs, Columbia, South Carolina. (Telephone conversation December 1987.) Hereinafter *Logan*.

23. 560 F.2d 779 (7th Cir. 1977).

24. 815 F.2d 818 (1st Cir. 1987), *cert. denied*, 108 S.C. 89.

25. Attachment #3 is a financial disclosure form. This form was developed and provided by the Civil Division of the Office of the New York State Deputy Attorney General for Medicaid Fraud Control.

26. *Logan*, supra n. 22.

27. Id.

28. Id.

29. *Miranda* v. *U.S.*, 384 U.S. 436 (1966).

30. Form provided courtesy of the Georgia State Bureau of Investigation.

31. Form developed by and provided with permission of the Polygraph Examiner's Board of the State of Georgia.

32. *Logan, op. cit.*

ATTACHMENT #1

STATE OF NORTH CAROLINA	IN THE GENERAL COURT OF JUSTICE
COUNTY OF BRUNSWICK	SUPERIOR COURT DIVISION
STATE OF NORTH CAROLINA)	
VS.)	*PLEA AGREEMENT*
(deleted))	

THIS AGREEMENT, made this the _____ day of July, 1987, by and between the State of North Carolina, represented by Wanda G. Bryant, Assistant District Attorney for the Thirteenth Judicial District and the defendant, (deleted) and Roy D. Trest, his attorney.

1. The defendant, (deleted) , agrees to plead guilty to one count of conspiracy to traffic in more than 400 grams of cocaine.

2. The defendant, (deleted) , understands that he is subject to the maximum penalty of thirty-five years and to a $200,000.00 fine.

3. The defendant, (deleted) , agrees to fully and truthfully cooperate with the State of North Carolina and the United States Attorney's Office and any other state and any law enforcement agents and prosecutors in their investigation of the importation, possession and distribution of controlled substances and related unlawful activities. This cooperation includes, but is not limited to, truthful and complete debriefings of the defendant's knowledge concerning unlawful drug activities. Also, the defendant understands that he must fully disclose and provide truthful information to the State including any books, papers or documents or any other items of evidentiary value to the investigation to be determined by the State. The defendant must also testify fully and truthfully before any grand juries and at any trials or proceedings if called upon to do so by the State subject to prosecution for perjury for not testifying truthfully.

4. The State agrees not to indict the defendant for any prior drug-related offenses discovered during the debriefing sessions based upon information given to the State by the defendant.

However, the defendant may be indicted, tried and convicted on other evidence than his own statement, except that any violation of any part of this agreement renders this entire agreement null and void and the defendant may be prosecuted on all violations using all evidence gathered.

5. The defendant, (deleted) , understands and agrees that any and all assets or portions thereof acquired or obtained by him as a result of illegal trafficking in drugs or used to facilitate such illegal activity shall be surrendered to the State of North Carolina or any lawful agency as may be directed by the Court. The assets to be surrendered include but are not limited to cash, stocks, bonds, certificates of deposit, personal property and real property.

6. The defendant, (deleted) , further agrees to submit to a polygraph examination by any qualified Federal or State polygraph examiner regarding his knowledge of or involvement in drug related activities, assets or other related unlawful activities by himself or others and regarding any and all assets and conveyances acquired or used by the defendant or others whether drug related or not.

This agreement is expressly contingent upon successful completion of a polygraph examination.

7. The State of North Carolina agrees that if the defendant, to the best of his knowledge, provides substantial assistance in the identification, arrest and apprehension of any accomplices, accessories, coconspirators or principals, then the State will recommend at sentencing that the Court find the defendant has been of substantial assistance pursuant to 90-95 (h)(5).

8. Sentencing is ultimately in the discretion of the Court and nothing contained herein is intended to usurp the Court's authority. It is further understood that any substantial assistance is based upon the defendant's full and complete disclosure of *any* and *all* facts relevant to investigations regarding illicit drug activity and truthful testimony should the defendant be called upon to testify.

This the _____ day of July, 1987.

ROY D. TREST
Attorney for Defendant

WANDA G. BRYANT
Asst. District Attorney
Thirteenth Judicial District

ATTACHMENT #2*

STATE OF NORTH CAROLINA COUNTY OF NEW HANOVER	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION
STATE OF NORTH CAROLINA) VS.) (deleted))	*PLEA AGREEMENT*

THIS AGREEMENT, made this the _____ day of _____ , 1987, by and between the State of North Carolina, represented by William E. Wolak, Assistant District Attorney, pursuant to N.C.G.S. 7A-64, and the Defendant, (deleted) , and Carter T. Lambeth, his attorney.

1. In reference to Count One of 84 CrS 16638, the Defendant, (deleted) , agrees to plead guilty to one felony count of possession with intent to sell or deliver more than one gram of cocaine in violation of N.C.G.S. 90-95(a)(1). The Defendant fully understands that upon said plea that he is subject to the maximum penalty of ten (10) years imprisonment and/or a fine.

2. In reference to Count Two of (deleted) , the Defendant, agrees to plead guilty to one felony count of delivery of cocaine to (deleted) in violation of N.C.G.S. 90-95(a)(1). The Defendant fully understands that upon said plea that he is subject to the maximum penalty of ten (10) years imprisonment and/or a fine.

* This plea arrangement is fairly comprehensive. It was drafted and used after problems of interpretation arose in the prior plea (see Attachment 1). Note paragraph 8 of this attachment regarding defendant's agreement to submit to a polygraph examination, and compare it to paragraph 6 of Attachment 1. Language in paragraph 8 gives the government the option of determining whether a polygraph is necessary. Holding the threat of a polygraph examination over the head of a defendant proved to be a very effective tactic in prosecutions in North Carolina. It was usually unnecessary to place the defendant on the polygraph as the assets were often accounted for early in the debriefing processes.

3. In reference to Count Three of 84 CrS 16638, the Defendant, (deleted) , agrees to plead guilty to one felony count of conspiracy to deliver more than one gram of cocaine in violation of N.C.G.S. 90-98. The Defendant fully understands that upon said plea that he is subject to the maximum penalty of ten (10) years imprisonment and/or a fine.

4. The Defendant, (deleted) , agrees to plead guilty as charged to Count One of (deleted) , to wit: possession with intent to sell or deliver more than one ounce of marijuana in violation of N.C.G.S. 90-95(a)(1). The Defendant fully understands that upon said plea that he is subject to the maximum penalty of five (5) years imprisonment and/or a fine.

5. The Defendant, (deleted) , agrees to plead guilty as charged to Count Two of 84 CrS 16707, to wit: possession of less than one gram of cocaine in violation of N.C.G.S. 90-95(a)(3). The Defendant fully understands that upon said plea that he is subject to the maximum penalty of two (2) years imprisonment and/or a maximum fine of Two Thousand Dollars ($2,000.00).

6. The Defendant, (deleted) , agrees to fully and truthfully cooperate with any and all prosecutors of the State of North Carolina, the United States Attorney's Office and any other state and any local, state or federal law enforcement agency in their investigation into the unlawful importation, use, possession, manufacturing, transportation, distribution or trafficking in controlled substances and related unlawful activities. This cooperation includes, but is not limited to, truthful and complete debriefings by designated law enforcement agents of the Defendant's knowledge concerning unlawful drug activities. In addition, the Defendant understands that he must fully and truthfully provide to the aforesaid prosecutors and officers any and all books, papers or documents or any other items of evidentiary value to the aforementioned investigations as determined by the aforementioned investigative personnel. The Defendant understands that his failure to fully cooperate will null and void this entire agreement.

7. The Defendant, (deleted) , further agrees to provide full, complete and truthful testimony before any and all federal

or state grand juries, and at any and all federal or state trials or other proceedings if called upon to do so by the State of North Carolina, the United States Attorney's Office or any other state. The Defendant also understands that he will be subjected to prosecution for perjury if he fails to provide *truthful testimony* when called upon to testify.

8. The Defendant, (deleted) , further agrees to submit to any and all polygraph examinations by any qualified federal or state polygraph examiner when called upon to do so by the State of North Carolina. The Defendant understands that such polygraph examinations may include, but will not be limited to, his knowledge of or involvement in unlawful drug related activities, his knowledge of others' involvement in unlawful drug related activities, and the identification of any and all assets and conveyances acquired in whole or part by the Defendant or others through unlawful drug related activities or the use of such assets or conveyances to further such unlawful activities.

9. The Defendant, (deleted) , fully understands that this entire plea agreement is expressly contingent upon his successful completion of the aforementioned polygraph examinations and that his failure to successfully comply with this condition will null and void this entire agreement.

10. The Defendant, (deleted) , further agrees to fully and truthfully identify any and all assets, conveyances or portions thereof acquired or obtained by him as a result of illegal drug related activities or used by him or others to further such illegal activities. In addition, the Defendant agrees to surrender to the State of North Carolina or any other lawful agency as may be directed by the Court, any and all assets, conveyances or portions thereof, acquired or obtained as a result of unlawful drug-related activities or used by the Defendant to further such illegal drug-related activities. The assets to be identified and surrendered include but are not limited to cash, stocks, bonds, certificates of deposit, interest in business(es), personal property(ies), and real property(ies). The Defendant fully understands that any attempt by him or any person acting at his direction to conceal, secrete or otherwise dispose of such assets

or conveyances will null and void this entire agreement.

11. The Defendant, (deleted) , agrees to waive any and all rights he may have under the North Carolina Speedy Trial Act in reference to the above-captioned criminal actions and that this waiver shall not be affected by any subsequent declaration that this plea agreement is null and void.

12. Pursuant to the provisions of N.C.G.S. 15A-133, the Defendant, (deleted) , Carter T. Lambeth, his attorney, and Assistant District Attorney, William E. Wolak, with the specific consent of Frank R. Parrish, Assistant District Attorney for the First Judicial District, hereby consent and waive venue in the above-captioned criminal actions from New Hanover County, Fifth Judicial District, to Dare County, First Judicial District. Further, it is fully understood and agreed by and between all parties that the waiver of venue shall only affect the sentencing stage of the above-captioned criminal actions. In addition, if this plea agreement is subsequently declared null and void for any reason, this waiver of venue shall likewise be null and void.

13. The State agrees to dismiss Count Two of 84 CrS 16705, to wit: possession with intent to use drug paraphernalia in violation of N.C.G.S. 90-113.22. Further, the State agrees to dismiss Count One of 84 CrS 16707, to wit: manufacturing of marijuana in violation of N.C.G.S. 90-95(a)(1).

14. The State agrees not to object to the Defendant's motion to consolidate for sentencing all offenses arising out of the above-captioned criminal cases with any and all criminal actions against the Defendant now pending entry of judgment in Dare County, First Judicial District. However, nothing contained herein is intended to usurp either the Court's authority or the discretion of the District Attorney for the First Judicial District in this matter. The Defendant, (deleted) , fully understands that this provision is expressly contingent upon his successful completion of all provisions and conditions of this plea agreement.

15. The State further agrees not to indict the Defendant, (deleted) , for any prior drug related offenses discovered during the debriefing sessions and based upon informa-

tion given to the State by the Defendant. However, the Defendant fully understands that he may be indicted, tried and convicted for any drug-related offense on any and all evidence other than his own statements. The Defendant further understands that any violation of any part, provision or condition of this plea agreement renders the entire agreement null and void and the Defendant may be prosecuted on all violations using all evidence gathered.

16. The State of North Carolina agrees that if the Defendant fully complies with all provisions and conditions of this agreement and to the best of his knowledge provides substantial assistance in the identification, arrest, apprehension, indictment and conviction of any and all persons involved in illegal drug related activities, then the State will recommend at sentencing that the Court find that the Defendant has been of substantial assistance pursuant to N.C.G.S. 90-95(h)(5) and 15A-1340.4(a)(2)(h). The Defendant understands that the State will not make any recommendations concerning the actual sentence imposed by the Court. However, if the Court should impose an active term of imprisonment upon the Defendant, the State will recommend that the Defendant not be confined in the same prison facility with any individual against whom the Defendant has provided testimony.

17. Sentencing is ultimately in the discretion of the Court and nothing contained herein is intended to usurp the Court's authority. It is further understood by all parties to this agreement that any substantial assistance is specifically based upon the Defendant's full, complete and truthful disclosure of *any* and *all* facts relevant to the State's investigations regarding illicit drug activities and truthful testimony should the Defendant be called upon to testify.

This the _____ day of _____, 1987.

CARTER T. LAMBETH
Attorney for Defendant

WILLIAM E. WOLAK
Assistant District Attorney

Defendant

ATTACHMENT #3

AFFIDAVIT OF FINANCIAL INFORMATION

STATE OF _____)
) S.S.:
COUNTY OF _____)
_____ being duly sworn, deposes and says:

My primary residence is _____ _____ and my social security number is _____ . The following is an accurate statement, as of _____ , of my net worth (assets of whatsoever kind and nature and wherever situated minus liabilities), income from all sources and statement of assets transferred of whatsoever kind and nature wherever situated. In filling out this form I have followed the instructions set out herein.

GENERAL INSTRUCTIONS

1. *Complete all items*, marking "None", "Inapplicable" or "Unknown", as appropriate.

2. Type or print description of item and amount in the appropriate space.

3. Number each separate item within a specific heading.

4. Furnish additional information as indicated.

5. If additional space is required use a separate rider referring to the category, section, letter and/or number and incorporate the rider by specific reference within the appropriate section.

6. Under "Jt" column check if jointly owned with others.

7. Under Amount column insert *total* estimated *present market value* of asset.

8. Under My Share column insert percentage of asset owned by deponent.

9. Attach accurate and complete copies of your federal and state income tax returns, including all supporting schedules, for the last three years. If you do not have access to such copies, then sign the relevant consent form or forms annexed to this form of affidavit. This form will not be accepted without either the copies or the relevant consents.

ASSETS

CASH ACCOUNTS

List financial institution, address, account number	Jt	Amount	My Share
Cash			
Checking (individual, joint)			
Savings (individual, joint, special trusts, etc.)			
Security deposits, earnest money, etc.			
Short term paper (certificates of deposit, treasury notes, etc.)			

Securities

Bonds, notes, mortgages

Obligor	Maturity Date	Principal Amount	Jt	Market Value	My Share

Equity securities, options and commodity contracts (at present market value)

Number of Shares	Issuer and Type	Cost	Jt	Amount	My Share

Brokers' Margin Accounts (identify broker and credit balances)

	Jt	Amount	My Share

Loans and Accounts Receivable

Obligor	Maturity Date	Principal Amount	Jt	Market Value	My Share

Value of Interest in any Business (describe investment, giving name and address of company, whether it is a corporation, partnership, sole proprietorship or trust, your capital contribution, net worth of the business, percent of your interest, and any other information hearing upon valuation including *the measure of value used for determination.*)

	Amount

Life Insurance (identify whether Term or Whole Life):

Carrier, Policy No.	Beneficiary	Face Value	Cash Surrender Value	Owner

Vehicles (boats, planes, trucks, campers, etc.)

Make	Model & Year	Serial #	Jt	Amount	My Share

Real Estate (include all types of interests such as leaseholds, life estates, etc., at market value; do not deduct any mortgage.)

Location and Description	Basis	Jt	Amount	My Share

Vested Interests in Trusts (for example, pension [including Individual Retirement Accounts, and Keogh Accounts], profit sharing, legacies, principal amount)

		Jt	Amount	My Share

Deferred Compensation

	Due Date	Jt	Amount	My Share

Contingent Interests (for example, stock options, interests subject to life estates, prospective inheritances, description and basis of valuation, date of vesting)

	Jt	Amount	My Share

Jewelry. Describe all items which cost more than $500.

	Cost

	Jt	Amount	My Share
Total *present market* value			

Household Furnishings

List all residences by address and give market value of furnishings at each residence	Jt	Amount	My Share

Art, Antiques, Precious Objects. Describe all items which cost more than $500.

	Cost

	Jt	Amount	My Share
Total *market* value			

Gold and Other Precious Metals

Metal & Form	Jt	Amount	My Share

Other Assets (for example, tax shelter investments, collections, hobbies, judgments, causes of action, patents, trademarks, copyrights, contract rights and any other assets not hereinabove itemized, at market value)

	Jt	Amount	My Share

GRAND TOTAL ASSETS $ _____

LIABILITIES

If jointly with spouse or another, so state, and indicate your share. Attach additional sheets, if needed. If payments are due on other than a monthly basis, indicate due dates.

Accounts Payable

Creditor	Date Incurred	Purpose of Debt	Original Amount	Current Amount	Monthly Payment

Notes Payable

Creditor	Date Incurred	Purpose of Debt	Original Amount	Current Amount	Monthly Payment

Installment Accounts Payable

Creditor	Date Incurred	Purpose of Debt	Original Amount	Current Amount	Monthly Payment

Brokers' Margin Accounts

Creditor	Date Incurred	Purpose of Debt	Original Amount	Current Amount	Monthly Payment

Real Estate Mortgages

Creditor	Date Incurred	Purpose of Debt	Original Amount	Current Amount	Monthly Payment

Interest Payable

Creditor	Date Incurred	Purpose of Debt	Original Amount	Current Amount	Monthly Payment

Taxes Payable

Creditor	Date Incurred	Type of Tax	Current Arrears	Amount	Monthly Payment

Loans on Life Insurance Policies

Creditor	Date Incurred	Purpose of Debt	Original Amount	Current Amount	Monthly Payment

Other Liabilities

Creditor	Date Incurred	Purpose of Debt	Original Amount	Current Amount	Monthly Payment

GRAND TOTAL LIABILITIES $_____

GROSS INCOME FROM ALL SOURCES

State sources of income. Attach additional sheets, if needed. For each category of income, state the total income for all of last year and to date this year. Where the form calls for it, answer separately for last year and for this year.

Total Income:

Gross income last year: _____

Gross income this year: _____ for _____ months

Salary or Wages: Set forth names and addresses of all employers during last year and this year and total wages paid by each. Indicate overtime earnings separately. *Attach previous year's W-2s.*

1. Wages: Employer, Address	Period of Employment	Amount
_____	_____	_____
_____	_____	_____

2. Total Current salary and wages: $_____
   Weekly _____ ; Biweekly _____ ; Monthly _____ ;
   1. Social Security _____
   2. New York State Tax _____
   3. Federal Tax _____
   4. Other payroll deduction (specify) _____
   Total _____

4. Names of dependents claimed:

_____

_____

_____

Total number of dependents _____

Bonuses, Commissions, Fringe Benefits (use of auto, club memberships, etc.):

Describe	Estimated Value
_____	_____
_____	_____

Partnership Income, Royalties, Sales of Assets (including installment payments):

Describe	Amount
_____	_____
_____	_____

Dividends and Interest:

Taxable: _____
Tax-free: _____
Total _____

Real Estate Income:

Describe property	Amount
_____	_____
_____	_____
_____	_____

Income From Trusts (Including Individual Retirement Accounts and Keogh Accounts), **Profit-Sharing or Annuities:**

Taxable: _____
Tax-free: _____
Total _____

Pension Income:

Taxable: _____
Tax-free: _____
Total _____

Awards, Prizes, Grants:

Taxable: _____
Tax-free: _____
Total _____

Income from Bequests, Legacies and Gifts:

Describe	Amount
_____	_____
_____	_____
_____	_____

Tax Preference Items:

Describe source in spaces below: Amount

1. Long-term capital deduction
   _____ _____
2. Depreciation, amortization or depletion
   _____ _____

3. Stock options—excess of fair market value over amount paid

_____ _____

Total _____

If your spouse, child or other member of your household is employed, set forth name and that person's annual income:

_____ _____

_____ _____

_____ _____

Total _____

Social Security Income: _____

Disability Benefits: _____

Public Assistance Income: _____

Income from All Other Sources:

Source Amount

_____ _____

_____ _____

GRAND TOTAL INCOME $_____

ASSETS TRANSFERRED

List all assets transferred in any manner on or after [date]. Transfers *in the routine course of business* which resulted in an exchange of assets of substantially equivalent value need not be specifically disclosed where such assets are otherwise identified in the statement of net worth.

Description of Property	To Whom Transferred and Relationship to Transferee	Date of Transfer	Value

I have carefully read the foregoing statements and a rider consisting of _____ pages annexed hereto and made part hereof; they are true and correct.

_____
(Print Name Below)

Sworn to before me this
day of , 19

_____

Form: DAGMFCU 011487

AUTHORIZATION TO RELEASE NEW YORK STATE TAX INFORMATION

I hereby authorize the New York State Department of Taxation and Finance to make available to the Deputy Attorney General for Medicaid Fraud Control, 270 Broadway, New York, New York, 10007, copies of my income tax returns and any other papers I have filed with the New York State Department of Taxation and Finance for the following years:

_____ _____

Date (Print Name Below)

SS# _____

STATE OF _____, COUNTY OF _____ ss.:

On _____ ____, 19____ before me personally came _____, to me known, and known to me to be the individual described in, and who executed the foregoing AUTHORIZATION TO RELEASE NEW YORK STATE TAX INFORMATION, and duly acknowledged to me that (s)he executed the same.

_____

NOTARY PUBLIC

Form: DAGMFCU 011487

AUTHORIZATION TO RELEASE FEDERAL TAX INFORMATION

I hereby authorize the United States Internal Revenue Service to make available to the Deputy Attorney General for Medicaid Fraud Control, 270 Broadway, New York, New York, 10007, copies of my income tax returns and any other papers I have filed with the Internal Revenue Service for the following years:

_____ _____

Date (Print Name Below)

SS# _____

STATE OF _____, COUNTY OF _____ ss.:

On _____ ____, 19____ before me personally came _____, to me known, and known to me to be the individual described in, and who executed the foregoing AUTHORIZATION TO RELEASE FEDERAL TAX INFORMATION, and duly acknowledged to me that (s)he executed the same.

_____

NOTARY PUBLIC

Form: DAGMFCU 011487

ATTACHMENT #4

WAIVER CERTIFICATE

DATE: _____ TIME: _____ PLACE: _____

My name is _____ . I am _____ years old. My address is _____ . I completed the _____ grade in school. I know that _____ _____ is a Special Agent of the Georgia Bureau of Investigation. (He) (She) told me that:

1. I have the right to remain silent.
2. Anything I say can be used against me in a court of law.
3. I have the right to talk to a lawyer and have him present with me while I am being questioned.
4. If I cannot afford to hire a lawyer, one will be appointed to represent me before any questioning, if I wish.
5. I can decide at any time to exercise these rights and not answer any questions or make any statements.

I understand my rights. Having these rights in mind, I am willing now to talk about _____ _____ _____ .

I have not been threatened. I have not been promised anything. I have not been forced in any way to answer any questions or to make any statements.

_____
Name

_____
Agent's Name

_____
Witness' Name

GBI-080 (5/82)

ATTACHMENT #5

State law provides that any individual requested to take a polygraph examination be given the following notice. (O.C.G.A. 43-36-15)

CONSENT TO POLYGRAPH EXAMINATION

(A) I am voluntarily consenting to take this polygraph examination, and I understand that I have the right to terminate or ask that the examination be stopped at any time.

(B) I further consent to the placement of attachments of polygraph components upon my person.

(C) I understand that in matters relating to pre-employment or periodic employment examinations, the polygraph examiner *cannot* inquire into or ask any questions concerning the following:

1. Religious beliefs or affiliations;
2. Beliefs or opinions regarding racial matters;
3. Political beliefs or affiliations;
4. Beliefs, affiliations, or lawful activities regarding unions or labor organizations; or
5. Sexual preferences or activities.

(D) I understand that, upon my written request to the polygraph examiner conducting this examination, I will be provided with a written copy of any opinions or conclusions rendered as a result of this examination. I understand that this request shall be made by me in writing within 15 days of the date of examination and that the examiner, upon my payment of the provided fee, will act upon the request within 15 days.

(E) I certify to the best of my knowledge that I am in good mental and physical condition. I am not aware of any mental or physical condition or ailment I may have which might be impaired or aggravated by me taking this examination.

(F) I understand that my polygraph examination is being conducted by _____, Georgia Polygraph License # _____

_____

Examiner's Business Address

(G) I agree that the results of this examination can be made known only to _____
and others as required by law.

(H) I understand that I have the right to file a complaint with the State Board of Polygraph Examiners, 166 Pryor Street, S.W., Atlanta, Georgia 30303, if I feel that this polygraph examination was improperly conducted.

I certify and declare that I (have read) or (have had read) to me and understand the above notification, and further declare that I voluntarily consent to take this polygraph examination.

This _____ day of _____ , 19____ .

_____ _____

Signature of Examinee Signature of Examiner

POLY 4 (Rev. 5-86)

ATTACHMENT #6

POLYGRAPH QUESTIONNAIRE

Date of Report 5/14/84

Case Synopsis

Investigation by the Task Force, Columbia, South Carolina, determined that (deleted) was one of several individuals involved in large scale smuggling operation in South Carolina. As a result of a plea agreement, (deleted) , through his attorney, agreed to cooperate and furnish all information in his possession concerning his involvement in the narcotics activities.

(deleted) subsequently interviewed and furnished detailed information concerning his involvement in the marijuana smuggling operation and also identified several other individuals involved in this operation.

AUSA CAMERON CURRIE, who is working with the Task Force, Columbia, South Carolina, requested polygraph examination of (deleted) to insure that all information he has furnished is accurate and truthful and that he was not withholding any information.

Examination Results

☐ No Deception Indicated	☐ Inconclusive	☒ Pre-test Confession/ Admission
☒ Deception Indicated	☐ No Opinion	☒ Post-test Confession/ Admission

Examiner's Conclusion

On May 8, 1984, (deleted) South Carolina, voluntarily appeared at the FBI Office, Columbia, South Carolina, for purpose of polygraph examination and interview. During the pre-

polygraph interview, (deleted) advised that all the information he furnished when previously interviewed by Agents of the Federal Task Force was accurate and truthful. He has not intentionally falsified any information; however, there is some additional information that he can now recall. (deleted) thereafter furnished some additional information regarding his involvement in the sale and distribution of quaaludes. (deleted) also furnished additional information concerning another smuggling operation.

(deleted) was then afforded a polygraph examination that consisted of the following relevant questions:

1. *Have you intentionally falsified any information you furnished concerning your narcotics activities?*
Answer No.

2. *Are you intentionally withholding information about your involvement in any other smuggling operation?*
Answer No.

3. *Are you intentionally withholding the names of anyone else involved in your smuggling operation?*
Answer No.

4. *Are you now intentionally withholding information concerning your assets?*
Answer No.

Following the polygraph examination, (deleted) advised that there was some information that he was withholding and that he wanted to talk with his attorney prior to furnishing this information. After an unsuccessful attempt to contact his attorney, (deleted) thereafter furnished (deleted) additional information concerning another smuggling operation to include identifying the individuals involved.

Date of Report 6/11/84

Case Synopsis

Investigation by the Task Force, Columbia, South Carolina, determined that (deleted) was one of several individuals involved in a large scale smuggling operation in South Carolina. As a result of a plea bargain, (deleted) , through his attorney, agreed to cooperate and furnish all information in his possession concerning his involvement in narcotics activities.

(deleted) subsequently interviewed, and furnished detailed information concerning his involvement in the marijuana smuggling operation and also identified several other individuals involved in this operation.

AUSA Cameron Currie, who is working for the Task Force, Columbia, South Carolina, requested polygraph examination of (deleted) to insure that all information he has furnished is accurate and truthful and that he is not withholding any information.

Examination Results

☐ No Deception Indicated	☐ Inconclusive	☒ Pre-test Confession/ Admission
☒ Deception Indicated	☐ No Opinion	☒ Post-test Confession/ Admission

Examiner's Conclusion

On May 18, 1984, (deleted) South Carolina, voluntarily appeared at the FBI Office, Columbia, South Carolina, for purpose of polygraph examination and interview.

During the pre-polygraph interview, (deleted) furnished additional information concerning his involvement in a marijuana smuggling operation that was headed by (deleted) .

(deleted) also furnished additional information concerning his own involvement in cleaning up an off-load site and some additional information concerning his conversations with (deleted) .

During the pre-polygraph interview, (deleted) also admitted he was withholding information concerning one other individual who was not directly involved in the smuggling operation but who alerted (deleted) when law enforcement was in the area. He identified this guy as (deleted) who runs the local (deleted) in (deleted) South Carolina.

After furnishing the above information, (deleted) was then afforded a polygraph examination that consisted of the following relevant questions.

Are you intentionally withholding the names of anyone else involved in that smuggling operation?
Answer No.

Other than what you mentioned, were you personally involved in any other smuggling operation?
Answer No.

Have you intentionally lied about how much money you received from your involvement in that smuggling operation?
Answer No.

Are you intentionally withholding any information regarding the location of (deleted) assets?
Answer No.

A review of the polygraph charts showed physiological responses indicative of deception. When confronted with the deceptive responses, (deleted) admitted that he was not being totally truthful in regard to some of the information that he had concerning Attorney (deleted) . (deleted) thereafter advised that he was present on one occasion when Attorney (deleted) and (deleted) were involved in making up a fictitious loan mortgage paper in an effort to cover up the source of some money. (deleted) thereafter furnished the details as to Attorney (deleted) involvement in this particular transaction.

At this point of the interview, (deleted) was turned over to the case Agent to interview further concerning all the information in his possession concerning (deleted) smuggling

operation. (deleted) stated that he would return for further polygraph testing after he had furnished this information.

On May 24, 1984, (deleted) returned to the FBI Office, Columbia, South Carolina, for further polygraph testing. (deleted) stated he has furnished all information in his possession to the Agents working this case and is completely agreeable to further polygraph testing.

At this point, (deleted) was afforded a second series of questions in the polygraph examination and these relevant questions are identified as follows:

Have you deliberately furnished any false information regarding your smuggling activities?
Answer No.

Have you falsified any of the information you furnished concerning (deleted) .
Answer No.

Are you now withholding any information to protect anyone?
Answer No.

A review of the polygraph charts failed to show physiological responses that are indicative of deception and it is the opinion of the examiner that (deleted) was truthful when he answered the above three relevant questions.

About the Author

Wanda G. Bryant, now an assistant U.S. attorney in Washington, D.C., was until January 1989 a staff attorney with the Police Executive Research Forum involved primarily in its asset forfeiture project. The author of several other papers and articles on asset forfeiture issues, she is a former criminal prosecutor with the Thirteenth Judicial District in North Carolina.

Police Executive Research Forum

The Police Executive Research Forum is the national professional association of chief executives of large city, county, and state police departments. The Forum's purpose is to improve the delivery of police services and the effectiveness of crime control through several means:

- the exercise of strong national leadership;
- public debate of police and criminal justice issues;
- research and policy development; and
- the provision of vital management and leadership services to police agencies.

Forum members are selected on the basis of their commitment to the Forum's purpose and principles. The principles which guide the Police Executive Research Forum are that:

- Research, experimentation, and exchange of ideas through public discussion and debate are paths for development of a professional body of knowledge about policing;
- Substantial and purposeful academic study is a prerequisite for acquiring, understanding, and adding to the body of knowledge of professional police management;
- Maintenance of the highest standards of ethics and integrity is imperative in the improvement of policing;
- The police must, within the limits of the law, be responsible and accountable to citizens as the ultimate source of police authority; and
- The principles embodied in the Constitution are the foundation of policing.

Police Executive Research Forum
Darrel W. Stephens, Executive Director
Clifford L. Karchmer, Project Manager
John Stedman, Project Director
Wanda Bryant, Staff Attorney
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