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TAINED JUSTICE

WHO'S MINDING THE STORE?

WHEN SEARCH WARRANT APPLICATIONS SEEMED FISHY, POLICE BRASS SHOULD HAVE ASKED QUESTIONS

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Security video shows Philadelphia Police Sgt. Joseph Bologna, now a lieutenant, during a raid of a West Oak Lane grocery store on Sept. 11, 2007.

Surveillance video photo

Search-warrant rules often ignored

Narc supervisors subject of probe

By **WENDY RUDERMAN**
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RED FLAGS were everywhere. Something wasn't right. Search-warrant applications read like form letters. A confidential informant made drug buys across the city, sometimes just minutes apart, defying the laws of physics. And narcotics officers worked alone with their informants, violating a Police Department rule.

Yet police brass apparently failed to notice.

Again and again, supervisors in the Philadelphia Police Narcotics Field Unit signed off on cookie-cutter applications for search warrants, which are now the subject of an expanding FBI and police Internal Affairs Bureau investigation.

"I think supervisors dropped the ball," said David Rudovsky, a prominent civil-rights attorney who specializes in police misconduct cases.

The scandal erupted in February when the *Daily News* detailed allegations that narcotics Officer Jeffrey Cujdik lied on search-warrant applications to gain access to suspected drug homes.

The Feb. 9 article launched a *Daily News* series, "Tainted Justice," that also delved into allegations that Cujdik and other officers disabled surveillance cameras during raids of stores that sold little ziplock bags, which police consider drug paraphernalia. After the officers cut or yanked camera wires, thousands of dollars in cash and merchandise went missing after the store owners were arrested, the merchants contend.

"These cops robbed us with a badge," said Anh Ngo, 25, whose family grocery store in the Lower Northeast was raided in September 2008.

She blames the supervisors. "They were the leaders of the pack," Ngo said.

After the officers left her store, she



ALEJANDRO A. ALVAREZ / Staff photographer

Jose Duran says narcotics officers seized \$10,000 from his West Oak Lane store but documented taking only \$785.

said, about \$12,000 in cash disappeared.

Narcotics enforcement is ripe for corruption because officers handle large amounts of cash and drugs, legal experts say.

So the Police Department has procedural safeguards: A supervisor must review and approve

all applications for warrants, officers must never meet an informant without another officer present, and at least two officers should conduct drug surveillances.

Yet supervisors and officers often disregarded those rules, a *Daily News* review of hundreds of search warrants found.

In several cases, officers worked alone with informants and were the only ones to watch drug buys. Yet supervisors approved those search-warrant applications.

"You can have the best rules in the world, but if you don't enforce them and apply them and supervise, they [the rules] won't mean very much," said Rudovsky, who teaches constitutional criminal procedure at the University of Pennsylvania Law School.

Cpl. Mark Palma, a narcotics-squad supervisor, was apparently not bothered when Officer Richard Cujdik, Jef-

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DAVID MAIALETTI / Staff photographer

"These cops robbed us with a badge," said Anh Ngo, who was working at her family's Lower Northeast store when it was raided by narcotics officers in September 2008.

The proper way to search

Investigators from the FBI and the Philadelphia Police Department's Internal Affairs Bureau are investigating whether search warrants were properly obtained and executed by some officers in the Narcotics Field Unit.

Here are the steps that are supposed to be followed:

- Police officers must thoroughly investigate a complaint to justify a search. Officers must consult with the highest-ranking supervisor.
- The search-warrant application, written by an officer, should be exact in locations, descriptions, people, dates and times, and quantities of drugs or paraphernalia. A supervisor must review it before approval.
- The application is faxed to the district attorney's charging unit for approval.
- An assistant district attorney evaluates the application, notes approval or disapproval in the margin, and returns it by fax.
- If given the go-ahead, the officers take the application to a judge or bail commissioner at Arraignment Court.

- The judge or bail commissioner signs and affixes his/her seal to the form.
- The warrant must be served within two days of being issued.
- Officers must not use abusive or derogatory language, threats or intimidation while executing a search warrant. Weapons should not be displayed unnecessarily after the safety of the officers has been ensured and the premises secured.
- Property should never be damaged or destroyed unless the search cannot be conducted without such action. The unnecessary damage or destruction of personal property by police during a search is strictly prohibited and WILL result in severe disciplinary action.
- Officers must inventory and record items seized on the search warrant. This paperwork must be completed in the presence of the person from whom items were seized or in the presence of at least one witness.
- Commanding officers must conduct a monthly review of all search warrants and file them.

Source: Philadelphia Police Department Directive 7 (Search Warrants) - September 1994

Documents: Charges often OK'd by paralegals

D.A. candidates say weak cases bog down system

By **BOB WARNER**
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THE PHILADELPHIA Police Department isn't the only city agency that must answer for the alleged misbehavior of police narcotics officers.

After police drug squads conducted more than 20 controversial armed raids on small neighborhood groceries and convenience stores, the District Attorney's Office decided to bring felony charges against many of the immigrant shop owners on charges of selling small plastic bags, which are considered drug paraphernalia.

In five cases reviewed by the *Daily News*, court paperwork indicates the felony charges were approved not by experienced prosecutors, but by inexperienced paralegals, working in the charging unit of the D.A.'s office.

The D.A.'s office says that the records are misleading, and that all the charges were approved by assistant D.A.s.

The charges were eventually reduced to misdemeanors or dismissed altogether when the cases finally caught the attention of judges in court. But in the meantime, the defendants spent thousands of dollars on attorneys, and taxpayers spent thousands for multiple court proceedings — including police overtime.

It's more evidence of a problem that all the candidates for district attorney are citing on the campaign trail: bad decision-making by the D.A.'s office, allowing hundreds of weak, overcharged cases to bog down the criminal-justice system.

In the early 1980s, when Ed Rendell was D.A., he fought a political battle with the Police Department, finally establishing a charging unit inside the D.A.'s office with responsibility for filing criminal charges. Previously, the Police Department could level criminal charges on its own.

"In the old days, assistant district attorneys would review police fact sheets and lend a critical

eye to what was going on," said Dan McCaffery, one of the five Democratic candidates for D.A. "Now you have young, inexperienced paralegals, probably a bit afraid of the police and intimidated by them. . . . They tend to be rubber-stamps for the police, and there tends to be overcharging."

Another candidate, Brian J. Grady, who has an active criminal-defense practice, said: "The chief of the unit is still a D.A. He supervises. But most of the people are . . . young people without law degrees. I would put D.A.s back in there, trust their judgment and implore them to use reasonableness."

Candidate Dan McElhatton said: "Overcharging causes a congestion in the system that is needless. If instead of a felony, you have a misdemeanor that can be handled in Community Court, where a judge tells you to stay out of trouble and do some community service, that's a sizeable savings in resources."

And D.A. hopeful Michael Turner said: "We have a prison system that's really overcrowded. The majority of people are there because they can't make bail or they're charged with misdemeanor crimes. We have to divert people out of there into the Community Court system."

Cathie Abookire, spokeswoman for D.A. Lynne Abraham, said by e-mail that in the current system, all criminal charges are approved by prosecutors, not paralegals. The names of paralegals may have appeared on charging papers, she said, because they represented the prosecutors' office at arraignments.

Abookire said that no one in the D.A.'s office would discuss the paraphernalia raids on mom-and-pop stores, now the subject of multiple investigations.

The charging problems aren't limited to the cases of the troubled Narcotics Field Unit described in the *Daily News* "Tainted Justice" series.

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frey's brother, worked alone on a three-day surveillance job in September 2007.

Palma approved a search-warrant application for Jose Duran's West Oak Lane grocery store, based on Richard Cujdik's assertion that he watched a confidential informant — CI #142 — enter the store to buy ziplock bags three times.

The validity of that search warrant is now in question.

For the last buy, Richard Cujdik wrote that he "observed" CI #142 enter Duran's store at about 4:30 p.m. on Sept. 11, 2007. Yet the *Daily News* watched the time-stamped Sept. 11 surveillance footage of the store between 4 and 5 p.m., and no one asked for or bought a ziplock bag.

Sgt. Joseph Bologna supervised the ensuing raid, part of which was captured on video. The *Daily News* obtained the video and posted it on its Web site, philly.com.

The video shows Bologna directing officers to "disconnect" camera wires. They do so with pliers and a bread knife. Bologna makes no effort to stop Richard Cujdik when the officer searches Duran's van, allegedly without a warrant.

Duran alleges that officers seized nearly \$10,000 in the raid but documented taking only \$785.

As part of the joint federal and local probe, Richard Cujdik was put on desk duty earlier this month. His brother, Jeffrey, the



Surveillance video

Sgt. Joseph Bologna (above) supervised a raid at this West Oak Lane convenience store on Sept. 11, 2007.

initial focus of the probe, remains on desk duty and was forced to give up his police powers and service weapon. His attorney has said that Jeffrey Cujdik had done nothing wrong. No officers have been charged in the investigation.

Meanwhile, Bologna has since been promoted to lieutenant. Now a supervisor at the 1st Police District in South Philadelphia, Bologna declined comment.

Four months after the September 2007 raid on Duran's store, CI #142 — one of the busiest informants in the city — would become the subject of an FBI investigation.

In early 2008, nearly a year before the *Daily News* began its "Tainted Justice" series, Assis-

stant Public Defender Bradley S. Bridge contacted the FBI and sounded an alarm, according to a hearing transcript obtained through the courts.

Bridge questioned whether CI #142 was a real person. He didn't understand how this informant could make drug buys in different parts of the city on the same day within a short time span, and in two instances, at the exact same time, court records show. Bridge declined comment.

The FBI launched a six-month investigation into the narcotics officers who worked with CI #142.

Four FBI agents reviewed more than 300 cases involving CI #142. They also examined phone records of the officers and the informant, and conducted surveillance.

"We established that 142 did exist," FBI Special Agent Thomas Scanzano told Bridge in a closed Aug. 14, 2008, hearing before Common Pleas Judge Ellen Green-Ceisler.

Scanzano told Green-Ceisler that the FBI found no evidence of corruption. He attributed the simultaneous drug buys by the same informant to this: "People's watches could be off a minute or two." Scanzano added that the buys appeared to occur within blocks of each other.

When Green-Ceisler asked him if officers used #142 in an unethical way, Scanzano replied: "It didn't amount to criminal charg-



JONATHAN WILSON / Staff photographer

Christopher Werner (center) and William Blackburn (second from right) were higher-ups in the narcotics division.

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DRUG

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es. I don't know. I don't want to comment on the ethics of the police officers, whether they're doing the right thing or not. In the end, it didn't raise a red flag."

Even so, the questions raised by Bridge at the time should have made police brass more vigilant, said Rudovsky, the attorney.

"It just appears to me . . . that the department internally did not continue to do the kind of oversight that they should have been doing," he said.

Now the FBI is once again looking at #142 as well as at least five other informants.

One of them is Ventura Martinez, known as CI #103, who worked with Jeffrey Cujdik for seven years.

Martinez has alleged that in at least two dozen cases, Cujdik instructed him to buy drugs elsewhere after he was unable to buy from the targeted house, Martin-

DRUG

ez, *Daily News*. Then, Cujdik allegedly lied in the subsequent search-warrant applications, saying that Martinez had bought drugs from the targeted house.

Cujdik had rented a home to Martinez and his common-law wife. Martinez alleged that Cujdik sometimes, when the rent was due, slapped his informant number on surveillance jobs that he didn't do. The Police Department pays informants for making drug buys and for information leading to drug and gun arrests.

Many of Jeffrey Cujdik's search warrants read alike, often using stock phrases to describe jobs with Martinez, a *Daily News* review found.

In at least five cases in which Martinez now says that he didn't make the drug buy, Cujdik wrote that he observed the drug suspect "looking from the front door" or "looking from the front porch" as CI #103 left the house.

Last fall, Cujdik's relationship with Martinez unraveled after an alleged drug dealer, Raul Nieves, discovered Martinez's identity and learned that he lived in Cujdik's house.

Stephen Patrizio, Nieves' attorney, decided to examine Cujdik's search warrants and found them troubling.

"When I started to read two or three of these [search warrants], I thought, 'This is crazy,'" Patrizio said.

"It was so apparent," he said. "I have 20 search warrants and they all read the same. The superiors don't even read them. If they did, they'd think, 'Holy mackerel!' . . . It's absolutely cookie-cutter."

A copy of every search warrant goes to the captain of the narcotics unit for review. Christopher

M. Werner, captain of the Narcotics Field Unit from 2002 to May 2008, declined comment, citing the open probe.

The department has a history of scandal surrounding narcotics enforcement.

In the mid-1990s, six officers went to jail for faking search warrants, robbing and wrongly arresting dozens of drug suspects.

That dark police chapter, known as the 39th District scandal, led to a legal settlement between civil-rights groups and the city. The agreement, which lapsed in 2004, required narcotics supervisors to do random interviews with informants and with people whose properties were searched.

It's unclear whether this was ever done.

William Blackburn, who oversaw the Narcotics Bureau as chief inspector from 2002 to May 2008, did not return phone calls from the *Daily News*.

In July 2002, about four months after Blackburn became head of narcotics, Ellen Green-Ceisler, then director of the Police Integrity and Accountability Office, found glaring problems in the narcotics unit.

Green-Ceisler wrote in a scathing 59-page report that the Police Department had failed to implement adequate controls against corruption.

She expressed concern about "boilerplate" search-warrant applications, saying that their fill-in-the-blank nature made it "virtually impossible" for her to determine if the officers had followed police policy.

Continued on Next Page

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CHARGES

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Grady, who has made the issue a keynote of his campaign, described a recent case in which he represented a young woman in her early 20s.

She and another woman fought over a man. Neither woman had any criminal record, but after the fight spilled into the doorway of one woman's home, Grady's client was charged with burglary and aggravated assault, both felonies.

"Their tempers got out of control," said Grady. "It was a case for community service."

Instead, the case went to trial,

and his client was found guilty of simple assault, a misdemeanor.

Last year, Grady said, an umpire showed up drunk to officiate a Sunday morning softball game in Northeast Philadelphia. A fight ensued after the umpire threw a softball through one of the players' windshields. Though his client was not involved in the fight, Grady said, the umpire filed a complaint with the D.A.'s office, which had approved a felony charge — "aggravated assault on a sports official."

The charges were thrown out in court, Grady said, when the umpire showed up to testify — drunk again. ★

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"Weak supervisory oversight [is] a key ingredient in corruption scandals," noted Green-Ceisler.

She recommended rotating supervisors to prevent them from becoming too chummy with subordinates.

Jeremy Ibrahim, an attorney representing a Kensington woman who claims she was sexually assaulted by a male officer during a raid on Dec. 14, 2007, said that supervisors are supposed to be team leaders. Instead, they often act like team members.

"The role of a supervisor is lost," he said. "Oversight is blurred or nonexistent. It's like the fox is guarding the hen-house."

Last month, Ibrahim's client, Lady Gonzalez, filed a civil lawsuit that blames supervisors for failing to prevent a male officer from fondling her breasts during the raid.

Cpl. Palma supervised the raid. He did not return phone messages from the *Daily News*.

Seven months after their Lower Northeast store was raided, Anh Ngo and her family are still trying to find out what happened to about \$12,000 that disappeared from their store.

They said they never received a property receipt. The officers left behind only a copy of the search warrant, which notes that they seized cash but doesn't list the amount.

Palma was the supervisor who signed the warrant as a witness to the cash seized.

The raid, on Sept. 16, 2008, began when Richard Cujdik, with his hand on his gun, banged on the door that led to an enclosed space near the cash register, Anh Ngo said.

"Open up, *mama-san*," Cujdik yelled, using the derogatory term for a female supervisor in Southeast Asia, typically related to sex work, Ngo said. "Do you guys sell bags here?"

Ngo's mother, Jenny Lu, who manages the family store, was behind the cash register.

After the officers shattered the cameras with sledgehammers, they climbed upstairs to the apartment where Ngo and her mother often stayed, Ngo said.

"That's where they found most of our money," Ngo said. "They flipped over our mattresses."

Her mom had squirreled away more than \$10,000 under the bed, mostly in small bills. "She's like a hamster when it comes to money," Ngo said.

"A lot of Asian people, they don't like to put money in the

bank," added Anh's brother, Kong, 24. "They like to keep it in their pillows."

The 5-foot-1, 110-pound Lu, who had no criminal record, was hauled off to jail for selling little ziplock bags. When Kong opened the store after the officers left, the floor was littered with candy wrappers, sunflower seeds and cigarette butts, he said.

The Ngos said that the store was in shambles, despite a police directive that says: "Unnecessary damage or destruction of personal property by police during a search is strictly prohibited and WILL result in severe disciplinary action."

Lu, 52, was entered into a special program for first-time offenders and her record is expected to be expunged. The city is attempting to seize the store property, but the forfeiture case remains in limbo because of the FBI investigation.

"What they did to the store wasn't right," said Lu, using Anh as an interpreter. "It was so wrong. The most heartbreaking thing was that when they raided my store, they took my money."

"I sit here and I cry every night because of what they did." ★

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