

Texas Dept. of Public Safety
Archives Division attn: Judy Jolley
13706 Research Blvd. #1000
Austin, TX 78758-1838

2/9/2012

Ms Jolley,

Pursuant to the Texas Public Information Act I am requesting access to the following DPS Internal Case File styled C96-076. This is for the purpose of research into that particular case and will result in me requesting copies on all or portions of the case. The information I am requesting includes but is not limited to:

All investigative reports, notes and photographs
Statements of all witnesses (state and federal) and the accused
Polygraph reports and results
Receipts and witnesses from businesses that were involved etc.
Judgements, initial dispositions, and final dispositions
Documentation and Correspondence from any prosecuting body (state and federal).
Any other documentation that I deem to be in any way associated with this case file.

I appreciate your cooperation in this matter and thank you for your time in advance.



RECEIVED
FEB 16 2012
OFFICE OF INSPECTOR GENERAL



STUART PLATT
INSPECTOR GENERAL

KENT RADNEY
DEPUTY INSPECTOR
GENERAL

TEXAS DEPARTMENT OF PUBLIC SAFETY

OFFICE OF INSPECTOR GENERAL

SUMMIT EXECUTIVE CENTRE
13706 RESEARCH BLVD, STE 100
AUSTIN, TEXAS 78750-1838
(512) 424-5017
www.dps.texas.gov




PUBLIC SAFETY
COMMISSION
ALLAN B. POLUNSKY, CHAIR
ADA BROWN
JOHN STEEN
CARIN MARCY BARTH
A. CYNTHIA LEON

February 16, 2012



RE: Public Information Request L12-046

Dear Mr. 

This is in response to your open records request for Office of Inspector General files. Please note that section 411.00755 of the Government Code limits the information that can be released from the personnel record of a commissioned officer of the Department of Public Safety. Unless the provisions in section (c) apply, only the information listed in subsection (b)(1)-(12) may be released. In addition, the Department has received a previous determination from the Attorney General's office allowing us to withhold the excepted information without requesting a ruling. Open Records Letter Ruling OR2010-12863; see Gov't Code §552.301(a); see also Open Records Decision No. 673 at 7 (2001). As none of the release provisions in section (c) are applicable in this instance, only the information specified in subsections (b)(1)-(12) is available to you at this time.

The cost of providing the releasable records maintained by the Office of Inspector General, including postage, is listed in the attached invoice. You may receive additional notices from other divisions of the Department. Any letter from another division regarding your request is separate from this notice and concerns records in addition to those made available by this letter. Please enclose the bottom portion of the invoice with your payment to ensure proper credit.

If you have any questions regarding the previous determination discussed above, please send them to the Office of General Counsel via email to OGC.Webmaster@txdps.state.tx.us, via facsimile to (512) 424-5716, via mail to P. O. Box 4087, Austin, TX 78773, or in writing at the main lobby of our offices at 5805 N. Lamar Blvd. in Austin. Thank you.

Sincerely,



Kent Radney
Deputy Inspector General

KR:jjj

Enclosure

COMPLAINT ON LIEUTENANT
JAIME ADAN BALLESTEROS
C96-076
VOLUME 1

COMPLAINT AGAINST: JAIME ADAN BALLESTEROS
#4655 CLE NARC LT AUSTIN/61
COMPLAINANT: WALTER CHAPMAN EEDS #3442
CLE NARC ASST CMDR AUSTIN/HQ
IA#C96-076 RE:AI96-167 09-05-96



Department of Justice

United States Attorney
Southern District of Alabama
Organized Crime Drug Enforcement Task Force

169 Dauphin Street
Suite 200
Mobile, Alabama 36602

privacy

January 13, 1995

William B. Simpkins,
Associate Deputy Assistant Administrator
Office of Professional Responsibility
700 Army Navy Drive
Arlington, Virginia 22202

Re: DEA SA T.K. SA Solis
Texas DPS Agent Adam Ballesteros

Dear Mr. Simpkins:

Pursuant to my conversation with Ronald Jordinson on January 13, 1995, this will confirm the information we received during the trial preparation for United States v. Eduardo Quesada Ruiz, Criminal No. 94-000152 (S. D. Ala.). Quesada is a member of an extensive smuggling group headed by Javier Prado Cardona, a Colombian working in Mexico. During our investigation, OCDETF No. SE-ALS-029, we discovered that a DEA investigation in Brownsville, Texas, also involved Prado.

My principal case agent, United States Customs Service SSA James C. Tanner, spoke with SA T. K. SA Solis about the Brownsville case, and we identified his informant, Otto V. Chicon, aka Checko, (W/M, dob [redacted], SSN [redacted], Reg. No. [redacted]) as a potential witness in our case because he personally met with Prado in Mexico. SA Solis told my agents that Chicon had brought out a load for Prado of 1,055 kilos of cocaine during July of 1991 in his investigation. This load was seized. Later, Chicon was arrested for 50 to 200 pounds of marijuana, and he is now serving a sentence of 25 months in federal custody.

The indictment against Eduardo Quesada Ruiz is one of several which have been returned in this investigation. We requested his provisional arrest in Colombia when we discovered that he was there. He was arrested by Colombian authorities, and the extradition request remained pending for about a year. In November of 1994, Quesada was ordered extradited and he was delivered into our custody at that time. His case is set for jury selection in Mobile on January 30, 1995.

William B. Simpkins
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January 13, 1995

Quesada was close to Prado in the smuggling organization. He operated Prado's money laundering activities and drug distribution in Los Angeles. Prado had Quesada and his brother, Gonzalo de Ruiz, set up an operation in Houston to handle some of the cocaine Prado was moving into the United States. During the course of our investigation, we obtained the cooperation of several members of this conspiracy through plea agreements, and we received information from at least three of them that Chicon participated in a 500-kilogram load during the time he was supposedly working for DEA and DPS in Brownsville. These subjects, of course, did not know that Chicon had worked for law enforcement as an informant.

SSA Tanner notified SA Solis of this information during January of 1993. Chicon was still working for him at that time. DEA SA Mike Turner from Mexico City and SA Solis travelled to Mobile shortly thereafter to interview one of these subjects about these allegation against Chicon and other information relating to this organization. SSA Tanner discussed with me the possibility of indicting Chicon in our case; however, I decided it would be a cleaner prosecution in Texas, as we were having some venue problems with the subjects we had already indicted in connection with the activities of this group in Houston. SSA Tanner told SA Solis about my decision, and SA Solis later notified Tanner that the United States Attorney's Office there would not prosecute Chicon for that incident so long as Chicon continued to work in SA Solis' investigation.

On January 4, 1995, SSA Tanner contacted SA Solis to notify him that SSA Tanner intended to interview Chicon during the week of January 9, 1995, in preparation for our upcoming trial on Quesada. SSA Tanner invited SA Solis to attend the interview, which was to take place in San Antonio where Chicon was incarcerated. After this conversation, SSA Tanner discovered that Chicon was actually imprisoned at an institution in Big Springs, Texas. He notified SA Solis of this change in location by leaving a message on SA Solis' voice mail. He has not heard from SA Solis since that time. SSA Tanner conducted the interview with United States Customs Service SA Alex Blas, who is also from the Mobile office.

I provided my agents with a standard proffer letter for Chicon's signature so that he would tell us about the 500-kilo load. When they arrived at the institution, Chicon appeared to be terrified. He was shaking and pale, and exhibited extreme reluctance to tell them about something terrible he knew. He eventually told them that the 500-kilograms he delivered to Quesada's group was part of a 2,000 kilogram load he brought in for Prado. His anxiety stemmed from the fact that SA Solis and DPS Agent Adam Ballesteros (phonetic) knew about the 2,000 kilograms, and they approved his delivery of it to those in the United States awaiting its arrival.

Chicon said he had seen 20 to 25 tons of cocaine in Mexico when he travelled there to set up his load in July of 1991. He flew a load of 1,055 kilograms for Prado, which SA Solis and Ballesteros seized. (My agents understand that they did not obtain prior country clearance to get the load out, and that SA Solis justified it by claiming that Chicon had been kidnapped and forced to fly the load, thus preventing his obtaining prior county clearance. Chicon did not mention this; rather, he stated that SA Solis and Ballesteros told him to go get the load).

After this load was seized, SA Solis and Ballesteros had Chicon tape-record some telephone calls, the only conversations which were taped during Chicon's participation in this investigation. Chicon was asked to travel to Mexico, which he did. Chicon said that Prado was satisfied with his explanation about the load, but "Hota" (phonetic), one of the Colombians, had a hard time with it. After about five days, Prado told Chicon he could leave.

Chicon returned to Texas and Prado began preparing for another load. This time, Prado said a different group was to receive the load, as he blamed the previous group for the seizure. SA Solis and Ballesteros approved Chicon's request to travel to pick up the next load. At Prado's instructions, Chicon contacted Eduardo Quesada Ruiz, my defendant, and his brother, Gonzalo de Ruiz, in Los Angeles by telephone prior to his leaving. He met with one or both of them in Houston three or four days later.

Chicon and his pilot then flew to Los Cerritos, near Puerto Vallarta, Mexico. They got 1,000 kilograms and returned to the United States. They maintained radio contact with SA Solis and Ballesteros when they neared Weslaco airport, but they did not see either of them when they landed. They stashed the 1,000 kilos in Chicon's Queenaire. The next morning, Chicon and his pilot retraced the entire episode, and returned with a second load of 1,000 kilograms. They also stored this load in the Queenaire.

SA Solis and Ballesteros debated whether to seize the 2,000 kilograms for several days. Prado was pushing Chicon to deliver it. Prado had 7 tons of cocaine to deliver, and SA Solis and Ballesteros questioned Chicon about the possibility of his getting the big load if they seized the 2,000 kilograms. Chicon told them that he would not go back to Prado if the 2,000 kilogram load was seized. He thought it would be too dangerous after the first load was seized. SA Solis and Ballesteros told him to deliver the load according to his instructions.

Chicon delivered the 2,000 kilograms in increments, according to Prado's instructions. He bought two vans to accomplish the deliveries. Five hundred kilograms of this load went to the group headed by de Ruiz and Quesada. The balance of the load went to

William B. Simpkins
Page Four
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another group. The delivery of the 1,500 kilograms took place in Houston, Texas. Chicon informed SA Solis and Ballesteros about the plans for the delivery, and Ballesteros told Chicon he would "clear the way." The load was moved to Wharton, Texas, but there was a delay in the delivery in Houston. Ballesteros called Chicon and told him he had to go ahead with the delivery, because Ballesteros would be unable to stay down there any longer. Chicon made the delivery the next day. He did not see Ballesteros or any law enforcement of any kind. Chicon believes that Ballesteros protected the delivery from interference by law enforcement.

Chicon also received the money to take back the Prado for this load. He notified SA Solis and Ballesteros to advise them of the plans for the money pick-ups. Chicon even made a call for Prado to goad someone into sending the money due for this load. (Through our investigation, we know the identity of this contact. Our investigation also confirms that the money was sent to Chicon for delivery to Prado.). Chicon paid his drivers, kept \$10,000 and took \$60,000 to Prado in Mexico. He told SA Solis and Ballesteros about this money.

Chicon also received two suitcases full of money to deliver to Prado, but Prado became angry with him when he suggested that he take his share out of the suitcases before bringing them to Mexico. Prado first told Chicon to keep the money and never contact him again, but he subsequently decided that he wanted the buy a plane. Chicon returned the money to Quesada's people for that purpose.

Chicon moved to San Antonio in late August of 1991. In October or November of that year, he travelled to Mexico for a meeting with Prado. There, he saw Quesada, de Ruiz and Prado during a meeting. Chicon was not privy to their conversation, but his impression was that they were discussing loads going into Los Angeles. After their business was concluded, Prado asked Chicon to smuggle Quesada into the United States, because he did not have the proper paperwork. Chicon provided this service, and Quesada flew from the airport at Harlingen, Texas, to Los Angeles.

This is a brief synopsis of the information which causes my concern about the activities of SA Solis and Ballesteros. It also impacts upon my upcoming trial, as Chicon is one of my witnesses. I need to know whether these allegations are true, as his credibility is a major issue for the trial. As you know, I must provide Brady material on Chicon, and the legitimacy of these claims is critical to my determination of same. Please act with as much expediency as possible in connection with this matter, and I must ask that you inform me of your findings in connection with Chicon's credibility as soon as possible. If this creates a problem for you in your investigation, please contact me for a discussion of these issues.

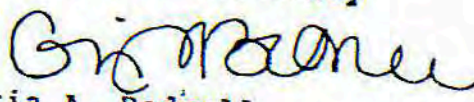
William B. Simpkins
Page Five
January 13, 1995

Today, I obtained a sealed ex parte court order to expedite the transportation of Chicon to this district. As previously mentioned, SSA Tanner is my principle case agent. As I have been unable to provide much detail herein, I suggest that your investigators contact SSA Tanner as soon as possible. We are continuing our trial preparation and it makes sense that we coordinate our efforts to the extent that this is possible. His office number is (205) 441-6146. His pager number is (205) 660-4696. He is being assisted in this case by SA Alex Blas, also of USCS. The DEA case agent is SA Steve Traub. He was on leave this week and next week, so he was not able to attend the interview with Chicon. No one from the DEA office in Mobile has been notified of this matter.

The Customs agents notified me and their supervisor, SSA Joseph Bettner, of this matter, who in turn discussed it with USCS SAC Gary Wright. I have not notified anyone in my office or in the Department of Justice, other than Mr. Jordinson. I will notify the United States Attorney in my district Tuesday. My office number is (205) 441-5472. My pager number is (205) 380-1815. Please contact me if you need additional information.

Sincerely,

Edward J. Vulevich, Jr.
United States Attorney

By: 
Gloria A. Bedwell
Assistant United States Attorney

GAB/gab

cc: SA James Tanner

DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM

RECEIVED

JAN 23 1995

CRIMINAL LAW
ENFORCEMENT

To: Thomas Davis, Chief, CLE
From: DD David Dudley, Lieutenant, Internal Affairs
Subject: Information from DEA

Date: 01-23-95

Division: D.S.

On this date I received a telephone call from Bill Simpkins (sic), DEA.

Simpkins advised they were conducting an investigation that involved one of their agents in Brownsville named Solis and one of our employees, Adan Ballesteros.

Simpkins stated there is a person currently in jail in Alabama, who is saying that in 1991, he worked as a CI for Solis and Ballesteros.

Suspect alleged that Solis and Ballesteros would let smaller amounts of narcotics enter into the US without interdicting the shipment and allow the narcotics to actually hit the streets. Their ultimate goal was apparently to get the bigger shipments.

Simpkins stated the suspect was to testify in Federal Court this week and Simpkins feels the suspect will testify that Solis and Ballesteros allowed drugs to come into the US without making an effort to stop them.

Suspect is being given a polygraph test today.

Simpkins stated he wanted to let us know so we would be prepared.

A DEA Inspector Burt Bruce will be conducting an investigation on DEA's behalf. Simpkins stated both he and Bruce may be reached at 202-307-8232 (Bruce will be leaving for Texas later this week).

Simpkins wanted us to assign someone to the case. I informed him how our system worked and advised him I would notify you of the situation.

Texas Department of Public Safety

Personnel Complaint

C96-076

Date: 9/6/96

Complainant's full name (print or type) Walter C. Eeds, Assistant Commander	Complainant's address: Box 4087 Austin, TX 78773	Telephone No.: 512/465-2150
Day & date of alleged misconduct: See Attached	Approximate time of alleged act(s) of misconduct: See Attached	
Location where incident occurred: See Attached		
If a person was arrested print or type name of arrested person: n/a	Arrested person's address: n/a	Telephone No.: n/a
Indicate relationship of arrested person to complainant: n/a		
Name or other identifying information relating to the DPS employee against whom the allegation(s) is/are being made: Jaime Adan Ballesteros, Lieutenant		
Witness or Witnesses (if any)		
Name of witness:	Address of witness:	Telephone No.:
Nature of Complaint(s)		
Clearly indicate the nature of your complaint. (Use reverse side of the form if more space is needed). See Attached		

Complainant Signature Witnessed By:

John W. Ball

Robert C. Eads
Signature of Complainant

___ Complainant refused to affix signature

Copy Received:

John Ball 9/6/96
Employee Signature Date:

___ Other (explain)

Response Waived:

Employee Signature: Date:

PENAL CODE

Sec. 37.02. Perjury. (a) A person commits an offense if, with intent to deceive and with knowledge of the statements meaning:

(1) he makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath; or

(2) he makes a false unsworn declaration under Chapter 132, Civil Practice and Remedies Code.

(b) An offense under this section is a Class A misdemeanor.

Sec. 37.03. Aggravated Perjury. (a) A person commits an offense if he commits perjury as defined in Section 37.02, and the false statement:

(1) is made during or in connection with an official proceeding; and

(2) is material.

(b) An offense under this section is a felony of the third degree.

Sec. 614.022. Complaint to be in Writing and Signed by Complainant. To be considered by the head of a state agency or by the head of a fire or police department, the complaint must be: (1) in writing; and (2) signed by the person making the complaint.

Sec. 614.023. Copy of Complaint to be Given to Officer or Employee.

(a) A copy of a signed complaint against a law enforcement officer, fire fighter, or police officer shall be given to the officer or employee within a reasonable time after the complaint is filed.

(b) Disciplinary action may not be taken against the officer or employee unless a copy of the signed complaint is given to the officer or Employee.

Count I

It is alleged that while working in the Narcotics Service, as a Sergeant Investigator, in the McAllen District, you permitted the importation of a total of approximately 1,350 pounds of marihuana on at least four (4) separate occasions into the United States by a smuggling organization known as the LAMAS Organization.

It is further alleged that you made no effort, whatsoever, to prevent the importation of that substance into this country even though you knew sufficient information at the time of each event to have prevented it.

It is further alleged that your enforcement efforts, relative to the said organization, were undertaken through the use of techniques and methods inconsistent with established departmental procedures. For example: two search warrants indicated under a file numbered N7A-90-009 did not articulate probable cause. In addition, they omitted critical pieces of information.

This activity occurred between the latter part of 1990 and the latter part of 1992.

Count II

It is alleged that you, in conjunction with Special Agent Solis of Drug Enforcement Administration, permitted the importation of 1,055 kilograms of cocaine into the United States and that you were aware of such intended criminal conduct prior to the time that you reported it to your supervisors and that you misrepresented the facts relative to the activities of the smugglers when you did report it to your supervisors. This importation occurred on or about July 5 or 6, 1991.

Count III

It is alleged that you permitted, allowed, and participated in the importation and distribution of 2,000 kilograms of cocaine. It is alleged that such activities took place on July 26 and July 27, 1991 and culminated in your activities on July 30 and 31, 1991 in Wharton, Texas. It is alleged that not only did you direct the smugglers to bring the load into the country, you arranged for its transportation into Wharton and travelled to Wharton for the purpose of preventing the local police from interfering with the transaction.

Count IV

It is alleged that you have accepted money from an individual by the name of Oto Vilmer Chacon. It is alleged that you received \$2,000 from him in the early part of 1990. It is further alleged that you received \$3,000 from him and used it to purchase a computer on March 6, 1990. It is further alleged that you received \$15,000 and used it in part to finance a portion of the acquisition of a new suburban from a Chevrolet dealership in San Antonio, Texas on April 27, 1990. It is further alleged that you used your knowledge as a member of the Department to avoid running afoul the federal banking laws, which would require the reporting of transactions in certain cash

amounts. It is alleged that you received \$50,000 from Chacon shortly after you facilitated the importation and distribution of 2,000 kilograms of cocaine. This is alleged to have been a gift as opposed to a bribe.

Count V

It is alleged that during the period of times you were involved in the activities set out in Counts I through IV, you failed to keep your supervisor apprised of your activities. It is further alleged that you failed to take up matters affecting you and your position with your supervisors. It is alleged that you failed to make timely, accurate, and complete reports of your activities. It is alleged that you failed to make timely, accurate, and truthful reports of your activities to your supervisors. It is alleged that you misrepresented material facts to your supervisors to avoid revealing your complicity with and involvement in this controlled substance smuggling organization.

The foregoing allegations of misconduct if true, in whole or in part, violate the following rules and regulations of the Department of Public Safety and State statutes.

Penal Code §37.10. TAMPERING WITH GOVERNMENTAL RECORD.

(a) A person commits an offense if he:

- (1) knowingly makes a false entry in, or false alteration of, a governmental record;
- (2) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;
- (4) makes, presents, or uses a governmental record with knowledge of its falsity;

Penal Code §38.05. HINDERING APPREHENSION OR PROSECUTION.

(a) A person commits an offense if, with intent to hinder the arrest, prosecution, conviction, or punishment of another for an offense or, with intent to hinder the arrest, detention, adjudication, or disposition of a child for engaging in delinquent conduct that violates a penal law of the grade of felony, he:

- (2) provides or aids in providing the other with any means of avoiding arrest or effecting escape.

Penal Code §39.02. ABUSE OF OFFICIAL CAPACITY.

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

(1) violates a law relating to the public servant's office or employment.

DPS General Manual Chapter 5, Section 05.06.04 Competency to Perform Duty.

All members of the Department shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Duties shall be performed in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Incompetence may be demonstrated by...; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for rank, grade, or position; the failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention;....

DPS General Manual, Chapter 5, Section 05.10.00, Compliance with Law.

Members of the Department of Public Safety are expected to be an example to the public in abiding by all laws of the United States, this state, and local jurisdictions.

DPS General Manual, Chapter 5, Section 05.50.02, Borrowing Money and Accepting Gifts, Nonmembers.

No member of the Department shall borrow any money or accept gifts or fees from any person seeking a departmental service, a favor, or information for himself or others or from anyone known, suspected, or reputed to be a violator of the law.

DPS General Manual, Chapter 5, Section 05.56.00, Departmental Reports.

Members of the Department shall submit all required reports on time and in accordance with established departmental procedures. Reports submitted shall be truthful and complete, and no member shall knowingly enter or cause to be entered any inaccurate, false, or improper information. Employees reporting false information shall be subject to severe disciplinary action.

DPS General Manual, Chapter 6, Section 06.10.01 General Orders #4 and #10.

As a member of the Texas Department of Public Safety it shall be my duty:

4. To know and obey orders and instructions at all times.

10. To conduct myself at all times, both on and off duty, in such a manner that I may merit the voluntary commendation of all law-abiding citizens and visitors with whom I come in contact, both those with whom

I meet in carrying out my duties and those I shall live among as a citizen in order that credit may be reflected upon the Texas Department of Public Safety.

DPS Criminal Law Enforcement Manual, Part I, Chapter 2, Section 02.55.00 Reporting.

Information relating to criminal actions reported, police actions taken, equipment usage, and other official activities performed by CLE Division personnel shall be reported on time, accurately, and completely in the manner and form prescribed by the Chief of CLE.

DPS Criminal Law Enforcement Manual, Narcotics Service Part II, Chapter 6, Section 06.10.02 Investigations.

Investigators of the Department of Public Safety Narcotics Service will continually maintain proficiency in all areas of investigative techniques and will conduct all investigations in a professional manner.

1. Investigators will initiate and assist in investigations only after an evaluation of information and the determination that the probability of a violation of state or federal statutes exists. All activities of investigators acting in an official investigative capacity will be documented in the existing reporting system.

DPS Criminal Law Enforcement Manual, Narcotics Service Part II, Chapter 6, Section 06.30.01 Relationship of Investigators with Cooperating Individuals.

2. Narcotics Service employees will not knowingly permit any illegal act by cooperating individuals. Condoning such acts makes the officer an accomplice and places him in a defensive position in future dealings with the cooperating individual. Condoning such an act may cost an officer his job. Many cooperating individuals "work" police officers for any of a wide variety of reasons, either to eliminate a competitor, to gain information, or to keep the officer engaged while others commit illegal acts. It is the policy of this service that the relationships between personnel and cooperating individuals be of a completely ethical and professional nature. Social contact will be strictly avoided, unless necessary in the furtherance of an official investigation, and then only with prior consent of the employee's supervisor.



JAMES R. WILSON
DIRECTOR

DUDLEY M. THOMAS
ASST. DIRECTOR

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD. - BOX 4087 - AUSTIN, TEXAS 78773-0001
512 / 465-2000



COMMISSION
ROBERT B. HOLT
CHAIRMAN
RONALD D. KRIST
JAMES B. FRANCIS, JR.
COMMISSIONERS

May 18, 1995

Jaime Adan Ballesteros, Lieutenant
Texas Department of Public Safety
Narcotics Service
9000 IH-35
Austin, Texas 78753

Dear Lieutenant Ballesteros:

Pursuant to the authority of the Director of the Texas Department of Public Safety, as provided in §411.006(5) Texas Government Code, and Article 2.12, Texas Code of Criminal Procedure, you have previously been commissioned as a peace officer by the Director of this Department. This is to officially order that you are suspended from duty with pay. This suspension has been approved by the Director. This action is based on allegations that you have on more than one occasion allowed controlled substances to be transported in and through the State of Texas for further distribution. It is alleged that you have failed to take appropriate action when you knew that such transportation was occurring and had an opportunity to seize the controlled substances and prevent further distribution.

Accordingly, the Director has determined and ordered that all of the authority and power vested in you by virtue of the Department of Public Safety Commission should be withdrawn. Inasmuch as your commission has been withdrawn, you no longer have police powers. Accordingly, any off duty employment request which had been approved is hereby canceled. This action is taken pursuant to the General Manual provisions and state statutes which empower the Director to confer such commissions.

As you know, a criminal investigation is being conducted regarding these allegations at this time. Since a criminal investigation is currently being conducted, an internal investigation will not be commenced at this time. An internal investigation may be commenced at a later point in time. If an internal investigation is commenced, you will be required to fully cooperate and answer all questions directed to you with regard to this matter.

You are to take absolutely no action whatsoever under any authority that you may previously have had as a peace officer of the State of Texas. You are directed to contact Captain Tony Garcia by telephone before 10:00 a.m., each Monday morning during the pendency of this suspension to receive orders and instructions.

You are instructed to take no enforcement action or make any representations on behalf of the Texas Department of Public Safety. You are instructed to make yourself available for any internal investigations regarding this matter. You are instructed to fully cooperate in any internal investigation conducted by the Department and to answer any questions asked of you. You are not to interfere with any internal inquiry or witness regarding said inquiry of which you are the subject.

You will remain on suspended with pay status until you are notified in writing that your status has changed. You will surrender all departmental property to your supervisor immediately upon receipt of this letter.


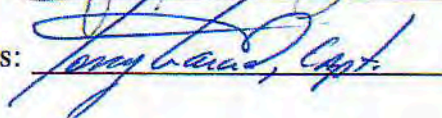
Sincerely,



Thomas A. Davis, Jr.
Chief, Criminal Law Enforcement Division

TD:JW:s

I acknowledge receipt of the original copy of this document.

Signed:  Date/Time 05/13/95 1:32 PM
Witness:  Date/Time 05/18/95 - 1:32 PM

DEPARTMENT OF PUBLIC SAFETY

INTEROFFICE MEMORANDUM

DATE: September 5, 1996

TO: Jaime Adan Ballesteros, Lieutenant, Narcotics Service,
FROM: Walter C. Eeds, Assistant Commander, Narcotics Service
SUBJECT: Complaint Notification

This memo is to inform you that I have filed a formal complaint against you. You are being charged with violating DPS policies contained in 1.) DPS General Manual Chapter 5, Section 05.06.04 Competency to Perform Duty; 2). DPS General Manual, Chapter 5, Section 05.10.00, Compliance with Law; 3). DPS General Manual, Chapter 5, Section 05.50.02, Borrowing Money and Accepting Gifts, Nonmembers; 4). DPS General Manual, Chapter 5, Section 05.56.00, Departmental Reports; 5). DPS General Manual, Chapter 6, Section 06.10.01, General Orders #4 and #10; 6). DPS Criminal Law Enforcement Manual, Part 1, Chapter 2, Section 02.55.00 Reporting; 7). DPS Criminal Law Enforcement Manual, Narcotics Service Part II, Chapter 6, Section 06.10.02 Investigations; 8). DPS Criminal Law Enforcement Manual, Narcotics Service Part II, Chapter 6, Section 06.30.01, Relationship of Investigators with Cooperating Individuals. You are also being charged with violating the following State Statutes: 1). Penal Code 37.10. Tampering with Governmental Records; 2). Penal Code 38.05. Hindering Apprehension or Prosecution; 3). Penal Codes 39.02. Abuse of Official Capacity. These charges are indicated on the attached C-1 form.

You are reminded of your right to respond to the complaint in writing as per General Manual section 07.42.02.4a. You may waive this provision if you so desire. If a response has not been received within five (5) days, it will be assumed you chose to waive this provision.

You are further advised to refrain from contacting the complainant or witnesses in any way which might be interpreted as an attempt to discourage the complainant or witnesses from following through with this complaint.

You are also reminded any employee who is the subject of an administrative complaint investigation shall cooperate fully and answer all questions posed to them by the investigator during such an investigation. Department employees questioned by a Department investigator concerning their knowledge of a complaint will fully cooperate and answer truthfully such questions as outlined in 07.42.04-7,8.

Page 2
Complaint Notification

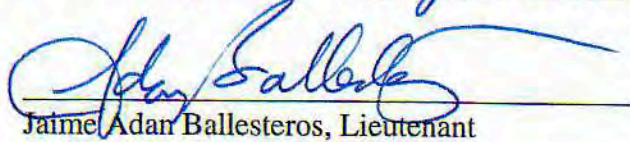
You are reminded to review the complaint and grievance procedures as found in General Manual Chapter 7A.



Walter C. Eeds
Assistant Commander
Narcotics Service

WCE:pes

Received at 3:00 a.m./p.m. on this the 6 day of September,
19 96.


Jaime Adan Ballesteros, Lieutenant


Witness

Department of Public Safety

Interoffice Memorandum

Via Facsimile to (512) 424-7166

11 September 1996

TO: Walter C. Eeds, Assistant Commander, Narcotics Service
FROM: Jaime Adan Ballesteros, Lieutenant, Narcotics Service
RE: C-1 Filed 6 September 1996

This memo is respectfully directed to you in exercise of my rights under Section 07.42.02(4)(a) of the General Manual, in response to the C-1 filed against me on 6 September 1996.

Please be advised that in response to the charges, I deny both generally and specifically each and every charge contained in the C-1.

I am confident that you shall find each and every charge unfounded.

Adan Ballesteros 4655

**DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM**

DATE: July 25, 1997

TO: Mike Scott, Chief, Criminal Law Enforcement
FROM: James W. Brubaker, Captain, Narcotics Service, HQ
SUBJECT: Complaint of Commander Walter C. Eeds concerning

Lieutenant Jaime Adan Ballesteros
Narcotics Service
District 6 - Austin
D. O. E.: 01/10/79

In compliance with your instructions, I have conducted an Investigation and submit this report:

COMPLAINT:

Assistant Commander Walter C. Eeds alleged in the C-1 Complaint on Lieutenant Jaime Adan Ballesteros:

- I. It is alleged that while working in the Narcotics Service, as a Sergeant Investigator, in the McAllen District, Lieutenant Ballesteros permitted the importation of a total of approximately 1,350 pounds of marihuana on at least four (4) separate occasions into the United States by a smuggling organization known as the LAMAS Organization.

It is further alleged that Lieutenant Ballesteros made no effort, whatsoever, to prevent the importation of that substance into this country even though Lieutenant Ballesteros knew sufficient information at the time of each event to have prevented it.

It is further alleged that Lieutenant Ballesteros' enforcement efforts, relative to the said organization, were undertaken through the use of techniques and methods inconsistent with established departmental procedures. For example: two search warrants indicated under file number N7A-90-009 did not articulate probable cause. In addition, they omitted critical pieces of information.

This activity occurred between the latter part of 1990 and the latter part of 1992.

Records obtained and information received from Captain Goodwin and Captain Antonio Garcia indicated that there was a tri-area meeting being conducted at the King Ranch. Telephone records (Tab 39) indicate that the call from Lieutenant Ballesteros to the King Ranch was not made until 07/09/91, three days after the cocaine arrived in the United States. The information provided by Chacon is also consistent with a statement taken by U. S. Customs Special Agent Tanner from defendants in the Mobile, Alabama case.

Lieutenant Ballesteros appeared confident in his recollections of how the investigation took place and only changed his story after reading the DEA-6 prepared by Special Agent Solis which detailed a much different story. Lieutenant Ballesteros appeared to feel comfortable prior to being confronted with the DEA-6 written by Special Agent Solis about the cocaine being brought in prior to being moved to El Campo and the fact that it was left unguarded until it was moved by Chacon and McLean. Lieutenant Ballesteros reported in CLE-1 dated 09/06/91 that "On Saturday, 07-07-91, Sgt. _____ received information that a shipment of cocaine was to be air smuggled into the U. S. by Javier PARDO organization." Lieutenant Ballesteros reported that Special Agent Solis was contacted and plans were made to seize the cocaine. (Tab 37) The information provided by Chacon and McLean along with the statements of Lieutenant Ballesteros and Special Agent Solis combined with the reports and telephone records indicated that the cocaine was already in the country and being stored at the Weslaco Airport when Lieutenant Ballesteros misrepresented the events in the report. Lieutenant Ballesteros reported that "On Tuesday, 07-09-91, Sgt. _____ contacted Lieutenant Floyd Goodwin (now Captain Goodwin) and advised that the probability of the cocaine shipment arriving into the U. S. was imminent and requested assistance in following the cocaine to Houston, Texas and seizing the cocaine shipment." (Tab 37) This reported information is contrary to what Lieutenant Ballesteros had stated to Inspector Bruce and Captain Brubaker during the interview of May 16, 1995. Lieutenant Ballesteros was allowed to examine the report detailing the above referenced information. Lieutenant Ballesteros studied the report an inordinate amount of time as if searching for an explanation for the discrepancy between what Lieutenant Ballesteros had told Inspector Bruce and Captain Brubaker and what actually happened. The evidence clearly indicates that the information provided to Department supervisors by Lieutenant Ballesteros was in conflict with the factual account of the events. Count II is sustained.

COUNT III.

It is alleged that Lieutenant Ballesteros permitted, allowed, and participated in the importation and distribution of 2,000 kilograms of cocaine. It is alleged that such activities took place on July 26 and July 27, 1991 and culminated in Lieutenant Ballesteros' activities on July 30 and 31, 1991 in Wharton, Texas. It is alleged that not only did Lieutenant Ballesteros direct the smugglers to bring the load into the country, Lieutenant Ballesteros arranged for its transportation into Wharton and traveled to Wharton for the purpose of preventing the local police from interfering with the transaction.

EVIDENCE

To Prove

Sworn Affidavit of James Weaver, Sergeant/Investigator, Narcotics Service, District 5
Sworn Affidavit of Larry Hensley, Investigator, 329th Judicial District Attorney's Office
Sworn Statement of Oto Chacon
Sworn Statement of Robert McLean
Interview of Mike Turner, Special Agent, Drug Enforcement Administration
Interview of Enrique Casas
Polygraph exam of Oto Vilmer Chacon
Polygraph exam of Robert McLean
Polygraph exam of Thomas K. Solis, Special Agent, Drug Enforcement Administration
Post-Polygraph interview of Thomas K. Solis, Special Agent, Drug Enforcement Administration
Weekly reports of Lieutenant Ballesteros
State of Texas travel vouchers
Cellular telephone records of Oto Vilmer Chacon
Cellular Telephone records of Thomas K. Solis, Special Agent, Drug Enforcement Administration
Cellular Telephone records of Lieutenant Ballesteros
DPS telephone credit card records
Sprint telephone records of Oto Chacon
Weslaco Aviation aircraft fuel receipt
General Aviation Center aircraft fuel receipt
Southwest Airlines receipt, American Express bill of Oto Chacon
Sheraton Grand Hotel receipt, American Express bill of Oto Chacon
Westin Hotel receipt, Oto Chacon
Fax copy of Houston Chronicle newspaper article

To Disprove

Sworn Statement of Jaime Adan Ballesteros, Lieutenant, Narcotics Service
Sworn Statement of Thomas K. Solis, Special Agent, DEA

CLASSIFICATION

Sustained

EVALUATION

Chacon and McLean both have asserted that Lieutenant Ballesteros and Special Agent Solis authorized two back to back flights into Mexico for the purpose of importing two thousand kilograms of cocaine in furtherance of the investigation of the PARDO

Organization. (Tabs 19, 20) Based on the interviews of Chacon and McLean and telephone records (Tab 46), the flights to Mexico were made on July 26 and July 27, 1991. McLean stated that McLean always personally contacted Lieutenant Ballesteros prior to traveling to Mexico just to protect himself (McLean). McLean indicated that after each of the two back to back trips that McLean and Chacon met with Lieutenant Ballesteros and Special Agent Solis. Lieutenant Ballesteros' weekly report (Tab 27) for July 26 and 27, 1991 indicated that Lieutenant Ballesteros traveled to Weslaco to meet with Special Agent Solis and Chacon and McLean. It should be noted that during July and August 1991 when the cocaine came into the country and was ultimately distributed, the only Saturday Lieutenant Ballesteros worked was July 27, 1991.

Lieutenant Ballesteros directed Chacon and McLean to transport the 2000 kilograms of cocaine from the Weslaco Airport to the Wharton Airport, in two back to back loads of 1000 kilograms, on July 30 and 31, 1991. Lieutenant Ballesteros then traveled to Wharton to keep the local law enforcement officials from interfering with the cocaine shipment. Lieutenant Ballesteros' weekly report for July 30, 1991 indicated that Lieutenant Ballesteros traveled from McAllen, departing at 6:00 A. M., to Wharton in reference to an air smuggling investigation on PARDO. Special Agent Solis stayed in the Weslaco area in case of any problems on the valley end of the trips. During the interview of May 16, 1995, Lieutenant Ballesteros was unable to state a valid reason for being in Wharton on July 30 and 31, 1991.

During 1991, Lieutenant Ballesteros worked exclusively with a local Wharton officer named Larry Hensley. (Tab 18) At the time, Hensley was a deputy sheriff. Hensley is now an investigator with the District Attorney's Office. Captain Brubaker and Special Agent Mrock interviewed Hensley; however, Hensley was unable to recall the specific dates that any of the investigations were done by Lieutenant Ballesteros. When asked by Captain Brubaker and Special Agent Mrock if there were any incidents that stuck out in Hensley's mind, Hensley recalled that on one of the investigations Lieutenant Ballesteros requested that Hensley keep all local police away from the Wharton Airport during the investigation. The Wharton Airport is under the control of the City of Wharton. Hensley did as Lieutenant Ballesteros requested and personally contacted the local police and made sure the local police remained away from the airport. According to Hensley, this was the only time Lieutenant Ballesteros ever made that type of request during any of the investigations. To the best of Hensley's recollection, this incident happened during the last investigation that Hensley ever coordinated for Lieutenant Ballesteros at the Wharton Airport. As far as Hensley remembered, Hensley's assistance to Lieutenant Ballesteros ended in the latter part of 1991 when the investigations stopped. As Hensley remembered it, the incident where Lieutenant Ballesteros requested that Hensley keep the local police away from the airport occurred the only time Lieutenant Ballesteros ever spent the night in Wharton. Travel records obtained indicated that the only time Lieutenant Ballesteros ever spent the night in Wharton while Chacon was an established informant was on July 30, 1991. (Tab 32)

Chacon and McLean were both given polygraph examinations as to the substance of this allegation to determine if the officers knew about the cocaine, had authorized the importation and distribution of the cocaine, and had Lieutenant Ballesteros traveled to Wharton to "clear the way" with the local law enforcement. The polygraph results indicated (Tabs 29, 30) In addition, Special Agent Solis was given a polygraph examination, at the request of Attorney Alan Brown who was acting as counsel for Special Agent Solis, relative to Special Agent Solis' knowledge of the 2000 kilograms of cocaine and the involvement of Special Agent Solis, Lieutenant Ballesteros, Chacon, and McLean as follows:

-
-
-
-

(Tab 31)

1.

COUNT IV.

It is alleged that Lieutenant Ballesteros had accepted money from an individual by the name of Oto Vilmer Chacon. It is alleged that Lieutenant Ballesteros received \$2,000 from him in the early part of 1990. It is further alleged that Lieutenant Ballesteros received \$3,000 from him and used it to purchase a computer on March 6, 1990. It is further alleged that Lieutenant Ballesteros received \$15,000 and used it in part to finance a portion of the acquisition of a new suburban from a Chevrolet dealership in San Antonio, Texas on April 27, 1990. It is further alleged that Lieutenant Ballesteros used Lieutenant Ballesteros' knowledge as a member of the Department to avoid running afoul the federal banking laws, which would require the reporting of transactions in certain cash amounts. It is alleged that Lieutenant Ballesteros received \$50,000 from Chacon shortly after Lieutenant Ballesteros facilitated the importation and distribution of 2,000 kilograms of cocaine. This is alleged to have been a gift as opposed to a bribe.

EVIDENCE

To Prove

Sworn Statement of Oto Vilmer Chacon

Receipt from OnLine Computers in McAllen
Records from Edinburg Teachers Credit Union
Records from Nueces County
Department Insurance Enrollment Forms

To Disprove

Statement of Jaime Adan Ballesteros

CLASSIFICATION

Sustained

EVALUATION

Chacon alleged that the first time Chacon gave money to Lieutenant Ballesteros was sometime in early 1990, specific date unknown, after Lieutenant Ballesteros had requested money from Chacon. According to Chacon, Lieutenant Ballesteros telephoned Chacon and requested a meeting in Brownsville. During the meeting, Chacon was asked by Lieutenant Ballesteros for a two thousand-dollar loan. Chacon advised that Chacon gave Lieutenant Ballesteros the money the same day. The money was never repaid. There has been no definitive evidence developed to prove or disprove that Lieutenant Ballesteros took the two thousand dollars.

Approximately two to three months after the first request for money in early 1990, Chacon stated that Lieutenant Ballesteros again met Chacon in Brownsville and requested three thousand dollars. Chacon advised that Lieutenant Ballesteros told Chacon that Lieutenant Ballesteros needed the money to purchase a computer to keep track of the information from their current investigations. On July 17, 1995, Captain Brubaker contacted Mr. Jerry King who had owned OnLine Computer Center in McAllen prior to it going out of business. Mr. King searched through the business records and gave Captain Brubaker receipt #23295 that documented the cash sale of a computer to Lieutenant Ballesteros for \$ 2702.60 on March 6, 1990. (Tab 34) Lieutenant Ballesteros, after examining the receipt, acknowledged that the receipt was for a computer that Lieutenant Ballesteros had purchased. Lieutenant Ballesteros was unable to explain how Chacon could have known the dollar amount of the computer if the allegation was untrue.

Sometime later in 1990, Chacon stated that Lieutenant Ballesteros contacted Chacon and requested another meeting in Brownsville. The meeting was held the next morning at which time Chacon stated that Lieutenant Ballesteros asked for a loan to purchase a new vehicle. Chacon advised that Lieutenant Ballesteros wanted fifteen thousand dollars. Chacon stated that Lieutenant Ballesteros told Chacon that Lieutenant Ballesteros needed to go to San Antonio and buy a suburban. Chacon cautioned Lieutenant Ballesteros about moving that much money. Chacon stated that Chacon told Lieutenant Ballesteros that if Lieutenant Ballesteros tried to purchase a vehicle utilizing that much cash that a CTR would be filled out. Chacon advised that Lieutenant Ballesteros told Chacon that Lieutenant Ballesteros dealt with those kinds of transactions on a regular basis and knew

how to take care of the situation without causing a problem. Chacon advised that Chacon went home, got the money and then met Lieutenant Ballesteros and passed the money between the two vehicles. The purchase of the suburban has been established through records provided by the Edinburg Teachers Credit Union. (Tab 41) The vehicle was purchased from Ancira-Winton Chevrolet in San Antonio. The methods used to purchase the suburban seem out of the ordinary. At delivery time, Lieutenant Ballesteros paid \$3,000.00 by check, \$1580.47 in cash, and received a \$1500.00 rebate leaving a balance of \$20,000.00 which is the amount of the Edinburg Teachers Credit Union draft. Prior to signing the final note, another \$9,000.00 was transferred to pay the balance down to \$11,000.00 bringing the total cash payment to \$13,580.47 (not including the rebate). It would almost appear as if Lieutenant Ballesteros was attempting to structure the transaction to avoid the \$10,000.00 threshold amount which financial institutions are required to report to the Internal Revenue Service.

According to Chacon, the next time Lieutenant Ballesteros asked Chacon for money was shortly after the 2000 kilo delivery. Chacon believes that this occurred within a month of that delivery which would have been in August or September 1991. Chacon stated that Lieutenant Ballesteros told Chacon that Lieutenant Ballesteros was having financial problems. Chacon advised that Lieutenant Ballesteros had told Chacon it was because his (Ballesteros) had been increased from three hundred to five hundred dollars a month. According to Chacon, Lieutenant Ballesteros also said that Lieutenant Ballesteros did not want Lieutenant Ballesteros' to find out about the increase

Chacon indicated that there were several remarks made by Lieutenant Ballesteros like "Don't forget me" and " You are going to take care of me..?" after Chacon returned from Houston. Chacon advised that Chacon took these statements to mean that Lieutenant Ballesteros wanted money. According to Chacon, a meeting took place at Chacon's house a short time later. Chacon stated that Chacon told Lieutenant Ballesteros that Chacon had something for Lieutenant Ballesteros. Chacon stated that Chacon then gave Lieutenant Ballesteros a brief case, which contained \$ 50,000.00. Chacon said Lieutenant Ballesteros responded by saying something like "I was expecting \$ 100,000.00, \$ 50,000.00 for each trip." Chacon responded by telling Lieutenant Ballesteros that \$ 50,000.00 was all Chacon could provide at the time. Chacon stated the incident occurred not more than two weeks after Chacon returned from Houston. Chacon indicated that these were the only payments that Chacon made to Lieutenant Ballesteros.

There has been no definitive evidence obtained to corroborate the \$2,000.00 or the \$50,000 paid to Lieutenant Ballesteros. The computer was purchased with cash as per the invoice obtained. The purchase price of \$ 2702.60 is close to the \$ 3,000.00 amount Chacon stated that Chacon gave to Lieutenant Ballesteros. The purchase of the suburban was made in San Antonio, as stated by Chacon, and purchased with a cash down payment of \$13,580.47 (not including the rebate) which is close to the fifteen thousand dollar figure given by Chacon. Lieutenant Ballesteros did have Lieutenant Ballesteros' raised from three hundred dollars a month to five hundred dollars a month. (Tab 35) Lieutenant Ballesteros, in his sworn statement (Tab 8), acknowledged the cash

expenditures and attempted to explain the source of the funds as money that Lieutenant Ballesteros had been saving at home. When questioned as to how much money Lieutenant Ballesteros had saved at home, Lieutenant Ballesteros responded by saying "About \$17,600 something". (Sworn Statement of Lieutenant Ballesteros, Page 138, line 3) Coincidentally, that figure is close to the amount of the cash expenditures that Captain Brubaker has been able to corroborate. When asked why the money was being saved at home, Lieutenant Ballesteros stated that Lieutenant Ballesteros was saving the money at home in case [redacted] from a previous marriage got [redacted] Lieutenant Ballesteros indicated that Lieutenant Ballesteros' [redacted] died from [redacted]. Lieutenant Ballesteros went on to say how mad Lieutenant Ballesteros was at having to go to court for a hearing on the increase in [redacted]. Lieutenant Ballesteros stated "... And I really got mad because I put [redacted] from [redacted]) on my insurance when I didn't have to. And that was just in case she got [redacted]. And then, when I got ordered to that and dental and medical, I said--well, I got mad. I said, "'Well, I'm just going to use the money I was saving just in case something happened and use it on me.'" Lieutenant Ballesteros' explanation of why Lieutenant Ballesteros was allegedly saving money for [redacted] is untrue. According to Lieutenant Ballesteros' [redacted] the [redacted] as well as the [redacted] were tested right after [redacted] as born. The tests indicated that the [redacted] were merely carriers of the genes and would never develop the disease. The [redacted] stated that Lieutenant Ballesteros knew this. The [redacted] also stated that [redacted] has been on Lieutenant Ballesteros' insurance since birth, which was verified by the Department's insurance office. It is unlikely that Lieutenant Ballesteros cared enough about [redacted] to save any money for any reason. According to Lieutenant Ballesteros' [redacted] and Lieutenant Ballesteros' [redacted] Lieutenant Ballesteros has not seen or talked to [redacted] or even given a birthday or Christmas present or card, since [redacted] was born. Count IV is sustained as to the \$3,000.00 and the \$15,000.00.

COUNT V.

It is alleged that during the period of times Lieutenant Ballesteros was involved in the activities set out in Counts I through IV, Lieutenant Ballesteros failed to keep Lieutenant Ballesteros' supervisors apprised of Lieutenant Ballesteros' activities. It is further alleged that Lieutenant Ballesteros failed to take up matters affecting Lieutenant Ballesteros and Lieutenant Ballesteros' position with Lieutenant Ballesteros' supervisors. It is alleged that Lieutenant Ballesteros' failed to make timely, accurate, and complete reports of Lieutenant Ballesteros' activities. It is alleged that Lieutenant Ballesteros failed to make timely, accurate, and truthful reports of Lieutenant Ballesteros' activities to Lieutenant Ballesteros' supervisors. It is alleged that Lieutenant Ballesteros misrepresented material facts to Lieutenant Ballesteros' supervisors to avoid revealing Lieutenant Ballesteros' complicity with and involvement in this controlled substance smuggling organization.

EVIDENCE

To Prove

Statement of Jaime Adan Ballesteros
Statement of Floyd Goodwin, Captain, Narcotics Service, HQ
Statement of Oto Chacon
Statement of Robert McLean
Memo from Thomas Telles
CLE-1 dated 02/02/91, File Number N7A-91-009
CLE-1 dated 04/23/91, File Number N7A-91-009
CLE-1 dated 05/22/91, File Number N7A-91-009
CLE-1 dated 09/06/91, File Number N7A-91-009
CLE-1 dated 10-09-89, File Number N7A-89-035
CLE-1 dated 11-27-89, File Number N7A-89-080
CLE-1 dated 12-06-89, File Number N7A-89-080
CLE-1 dated 01-15-90, File Number N7A-89-080
CLE-1 dated 01-12-90, File Number N7A-89-080
CLE-1 dated 09-14-90, File Number N7A-89-080
CLE-1 dated 02-20-91, File Number N7A-89-080
CLE-1 dated 08-26-91, File Number N7A-89-080
CLE-1 dated 03-18-92, File Number N7A-89-080
CLE-1 dated 11-20-92, File Number N7A-89-080
CLE-1 dated 05-25-93, File Number N7A-89-080
CLE-1 dated 12-02-93, File Number N7A-89-080
CLE-1 dated 07-18-94, File Number N7A-89-080
CLE-1 dated 03-15-95, File Number N7A-89-080
CLE-1 dated 02-16-90, by J. Guzman, File Number N7A-90-009
CLE-1 dated 02-16-90, by R. Brooks, File Number N7A-90-009
Affidavits for Search Warrants, File Number N7A-90-009
CLE-1 dated 02-19-90, File Number N7A-90-009
CLE-1 dated 03-20-92, File Number N7A-90-009
CLE-1 dated 08-18-92, File Number N7A-90-009
Statement of Jaime Adan Ballesteros

To Disprove

Statement of Jaime Adan Ballesteros

CLASSIFICATION

Sustained

EVALUATION

During this investigation it was determined that Lieutenant Ballesteros failed to keep Lieutenant Ballesteros' supervisors apprised of Lieutenant Ballesteros' activities. Lieutenant Ballesteros also failed to take up matters affecting Lieutenant Ballesteros and Lieutenant Ballesteros' position with Lieutenant Ballesteros' supervisors and Lieutenant Ballesteros failed to make timely, accurate, and complete reports of Lieutenant Ballesteros'

activities. In addition, Lieutenant Ballesteros failed to make timely, accurate, and truthful reports of Lieutenant Ballesteros' activities to Lieutenant Ballesteros' supervisors and misrepresented material facts to Lieutenant Ballesteros' supervisors to avoid revealing Lieutenant Ballesteros' complicity with and involvement in this controlled substance smuggling organization.

For example, during the investigation involved in Count II, Lieutenant Ballesteros was directing Chacon and McLean in the procuring of the 1,055 kilograms of cocaine unbeknownst to Department supervisors. The unilateral decisions being made by Lieutenant Ballesteros could have had catastrophic results subjecting the Department to severe public criticism and/or civil liability. The actions taken by Lieutenant Ballesteros in Count III resulted in 2000 kilograms of cocaine being distributed on the streets all in the alleged furtherance of an investigation. Lieutenant Ballesteros concealed these activities from Department supervisors.

Lieutenant Ballesteros' stated purpose for working these investigations with the Drug Enforcement Administration (DEA) was to obtain the proper clearances for Chacon and McLean to work in Mexico. Lieutenant Ballesteros unilaterally authorized the two informants to go into Mexico without proper authorization and concealed this information from Department supervisors by falsifying investigative reports. For example, reports in File Numbered Investigation N7A-91-009 (Tab 37) falsely reported information about negotiations in Mexico by an individual identified only as "CHEMO". According to Chacon, as verified by receipts, the person described as "CHEMO" was in fact Chacon. Lieutenant Ballesteros admitted in his sworn statement that "CHEMO" was indeed Chacon. Lieutenant Ballesteros stated that Lieutenant Ballesteros was given permission to falsely refer to Chacon as "CHEMO" by then Lieutenant Goodwin. Captain Goodwin denies any such authorization. DEA did not have authorization for Chacon to be in Mexico at this time. The only likely explanation for the use of the name "CHEMO" instead of Chacon's real name would be to conceal the fact that Chacon was in Mexico without authorization.

Another example of misleading reporting by Lieutenant Ballesteros is an update of file numbered investigation N7A-89-080 (Tab 25), dated 11/20/92, which stated that the defendant NIETO was "incarcerated in connection to the 1558 pounds of cocaine in a conspiracy investigation which was conducted by the McAllen DEA." In a previous CLE-1 dated 03/18/92, Lieutenant Ballesteros indicated that NIETO had been arrested on a case involving "negotiations where NIETO attempted to have a DEA agent deliver 500 pounds of cocaine to the Houston, Texas area" and not the case involving the fifteen hundred fifty eight (1558) pounds of cocaine. These two statements are inconsistent. Lieutenant Ballesteros went on to say that NIETO could not be prosecuted on the fifteen hundred fifty eight (1558) pounds of cocaine due to double jeopardy. This information is in direct conflict with information obtained from AUSA Annis.

Lieutenant Ballesteros stated that Lieutenant Ballesteros was unaware of any problems Chacon had involving Special Agent Tanner's investigation in Mobile, Alabama until

Lieutenant Ballesteros was asked to talk with Chacon about testifying in Special Agent Tanner's case. (Sworn Statement of Lieutenant Ballesteros, Page 99, line 22) Special Agents Solis and Turner both stated that a debriefing took place in Houston after their meeting in Mobile, Alabama with Special Agent Tanner and that Lieutenant Ballesteros was present at that meeting. (Tab 10, 22) The case in Mobile was discussed as well as the issue of continuing to use Chacon. Lieutenant Ballesteros is the one who set up the meeting as it was held at the ATF office where Lieutenant Ballesteros' works as an ATF Agent. Lieutenant Ballesteros went on to state that Lieutenant Ballesteros did not know what the problem was in Mobile. (Sworn Statement of Lieutenant Ballesteros, Page 100, line 5) Lieutenant Ballesteros then acknowledged that Lieutenant Ballesteros did learn about the Mobile problem at the meeting in Houston. (Sworn Statement of Lieutenant Ballesteros, Page 104, line 12) Lieutenant Ballesteros was then asked if Lieutenant Ballesteros reported Chacon's problem in Mobile to Department supervisors after returning from the Houston meeting. Lieutenant Ballesteros reversed Lieutenant Ballesteros' position and responded by saying, "I don't even know what the problem in Mobile was. It was that he was associated with some people there, as I understood it." (Sworn Statement of Lieutenant Ballesteros, Page 105, line 3) Lieutenant Ballesteros continued to make conflicting statements and denied any knowledge of the 500-kilogram cocaine case in Mobile, Alabama. Special Agents Turner and Solis, as well as Chacon and McLean all agreed that the problems with the Mobile, Alabama case were discussed at the meeting in Houston. According to Chacon, outside the presence of Special Agent Turner, Special Agent Solis and Lieutenant Ballesteros advised Chacon that Chacon had been identified as a participant in the Mobile, Alabama investigation. Chacon stated that Special Agent Solis and Lieutenant Ballesteros were very concerned about the Mobile, Alabama case. Chacon indicated that Special Agent Solis made a statement to the effect "I beat cancer and I'm not going to let this get me." Lieutenant Ballesteros failed to advise Department supervisors of the Mobile, Alabama investigation or the potential problems to avoid revealing Lieutenant Ballesteros' complicity in the smuggling of the 2000 kilograms of cocaine. Instead, Lieutenant Ballesteros attempted to cover up Lieutenant Ballesteros' involvement and that of Special Agent Solis. Lieutenant Ballesteros attempted to intimidate Chacon into not talking about the 2000 kilograms of cocaine.

Another example of not keeping supervisors informed and taking up matters affecting Lieutenant Ballesteros and Lieutenant Ballesteros' position, was failing to notify Department supervisors about the problems caused with Mexico over the load in Count II. After the 1055 kilogram cocaine seizure from Count II, the DEA Mexico City Country Office (MCCO) was extremely upset over violations of the DEA policy requiring domestic offices to first obtain country clearance from the MCCO for all cooperating individuals entering the Republic of Mexico in furtherance of operational domestic investigations. The MCCO was extremely worried about the ramifications of Chacon and McLean getting caught in Mexico and the effect that would have on relations with the Government of Mexico. Lieutenant Ballesteros, when asked if Lieutenant Ballesteros was aware of the problems with Mexico over the 1055 kilogram seizure, replied "Yes, they came and talked to me and T. K. (Solis)." (Sworn Statement of Lieutenant Ballesteros, Page 81, line 18). This information was never reported to Department supervisors. In a memo from Thomas M. Telles, Acting Country

(AUSA) Melissa Annis. AUSA Annis advised Captain Brubaker the reason none of the defendants were prosecuted in this investigation was that Lieutenant Ballesteros did not want Chacon to have to testify. It appears Lieutenant Ballesteros unilaterally made the decision not to have the case prosecuted thus allowing major traffickers to continue their operation.

In File Numbered Investigation N7A-90-009, Lieutenant Ballesteros seized approximately 8700 pounds of marihuana. The marihuana was seized pursuant to two search warrants and a consent to search. The affidavits prepared by Lieutenant Ballesteros do not contain any probable cause. (Tab 26) In addition, vital information was omitted from the affidavits. For example, there is no mention of information being provided by an informant, however Lieutenant Ballesteros paid Chacon \$5,000.00 for the information in this file. Lieutenant Ballesteros makes conflicting statements during the sworn interview as to whether or not Chacon provided information for the search warrant. (Tab 8) The affidavit, under the description of person in charge of suspected place, indicated that Juan LAMAS, "no description available" was in charge of the suspected place. Lieutenant Ballesteros had previously reported numerous descriptions of LAMAS. In addition, Lieutenant Ballesteros had just completed a six- (6) day surveillance, which detailed LAMAS' every move. Yet Lieutenant Ballesteros did not provide the court any description of LAMAS at all. Lieutenant Ballesteros failed to notify the court that the two residences had been entered and secured by officers prior to applying for a search warrant. Pursuant to this seizure, only lower echelon members of the organization, left to guard the marihuana, were arrested. Neither LAMAS nor any of the more important members of the organization were arrested.

It should be noted that Lieutenant Ballesteros later reported that Lieutenant Ballesteros was awaiting a letter from the United States Attorney's Office, who was handling the prosecution of this case, for authorization to destroy the evidence. There is no such letter in the investigative file. Later in the file, Sergeant [redacted] Lieutenant Ballesteros' [redacted], petitioned a Justice of the Peace for a Destruction Order and had the evidence destroyed without authorization from the federal prosecutor and closed the file. Sergeant [redacted] has not been interviewed and it is unknown why this action was taken and authorization was not obtained from the proper authority. (Tab 26)

In File Numbered Investigation N7A-91-007, Lieutenant Ballesteros seized approximately 550 pounds of marihuana and arrested Estevan LAMAS, brother of Juan LAMAS. Estevan LAMAS plead guilty to Misprision of a Felony. The original charges were never dispositioned as required by departmental policy. Lieutenant Ballesteros indicated that the most probable reason for the reduction in charges was for the defendant to plead guilty and allow the investigation to continue with additional charges being filed at a later date. Additional charges were never filed and none of the suspects identified as major traffickers were ever arrested or prosecuted on Lieutenant Ballesteros' investigation. (Tab 44)

As in the previous file, Lieutenant Ballesteros later reported that Lieutenant Ballesteros was awaiting a letter from the United States Attorney's Office, who also prosecuted this case,

Attache, DEA Mexico City, to James Morgan, Associate Special Agent in Charge, DEA Houston, Telles stated "It is my understanding that the C/I (Chacon) is controlled by Texas DPS and that DEA is having difficulties coordinating the C/I's (Chacon) control by the State agency. It is imperative that the heads of DPS, at the highest levels, are made aware of the sensitivity of their informant conducting operations in Mexico. If you feel it necessary that we intervene with Texas DPS, we can convene a meeting or request Headquarters or the Ambassador to assist." Lieutenant Ballesteros by his actions could well have caused the Department to become involved in an international incident. No Department supervisors were ever made aware of these problems by Lieutenant Ballesteros.

ADDITIONAL INFORMATION

During the course of this investigation, it was determined that Lieutenant Ballesteros made extraneous remarks in a report that should not have been part of a professionally prepared investigative report in violation of the Narcotics Service Manual. In File Numbered Investigation N7A-89-080 (Tab 25), CLE-1 dated 03/18/92, detail number four, Lieutenant Ballesteros reported, in reference to a request from FBI Special Agent Mitchell for reports from this file, "Sgt. _____, not having any reason to believe Mitchell would attempt to interfere with any ongoing investigation that the informant was presently working with the DPS and FBI agents, permitted Sgt. Davis to make copies of the reports Mitchell had asked for." In detail number six, Lieutenant Ballesteros stated "Sgt. Davis indicated to Sgt. _____ that Mitchell had a dry sense of humor, but Davis felt that Mitchell was trustworthy." These remarks had no place in a professionally prepared report and could have caused problems with the FBI had the remarks ever become public. Later in the same file, CLE-1 dated 11/20/92, detail number six, Lieutenant Ballesteros reported that "Upon the culmination of the task force investigation, _____ Ballesteros **will consider** the use of the 1558 pounds of cocaine to facilitate the task force investigation." This statement is another example of an unprofessional remark in a report that had nothing to do with the information being reported. It is also indicative of the unilateral decision making process employed by Lieutenant Ballesteros in conducting investigations.

Throughout the interviews of Lieutenant Ballesteros, Lieutenant Ballesteros made conflicting statements. Lieutenant Ballesteros reversed Lieutenant Ballesteros' position many times throughout the interview in an effort to explain away inadequacies in investigative technique and failure to keep supervisors informed of Lieutenant Ballesteros' activities.

OVERALL EVALUATION

While investigators involved in this investigation have been unable to corroborate all aspects of the information provided by Chacon and McLean, there have been no instances where case investigators have been able to disprove any of the information provided by Chacon and McLean. In addition, Lieutenant Ballesteros has made numerous conflicting statements as well as untrue statements. The failure to utilize accepted investigative techniques caused several major traffickers to go unprosecuted. In addition, Lieutenant

Ballesteros is responsible for 2000 kilograms of cocaine being distributed. The Department could have been embarrassed and subjected to civil litigation had Lieutenant Ballesteros been operating in an area of the State where Judicial oversight was more prevalent. Although the United States Attorney's Office has declined to prosecute Lieutenant Ballesteros, AUSA DeGabrielle stated in a letter to the Department "Nevertheless, because of the evidence of his (Ballesteros) involvement which does exist, it would be difficult, if not impossible, for this office to sponsor Ballesteros as a witness in future criminal cases without providing this information to defense counsel as Giglio or impeachment material against him (Ballesteros)." The Government's Notice of Impeachment Material filed by AUSA Bedwell in the Mobile, Alabama case is another source of concern should Lieutenant Ballesteros be required to testify in court. Any future court proceedings involving Lieutenant Ballesteros would require notification of these incidents to prosecuting attorneys as well as defense counsel thus effectively precluding Lieutenant Ballesteros from testifying in criminal proceedings which is an integral part of Lieutenant Ballesteros duties as a commissioned officer with the Department. Considering all the information obtained through interviews and business records, all counts, with the exception of Count IA should be sustained.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "James W. Brubaker", is written over the typed name.

James W. Brubaker, Captain
Narcotics Service Technical Unit HQ
Austin, Texas

For example, Lieutenant Ballesteros reported addresses and physical descriptions of LAMAS that varied from one report to another with no explanation for the discrepancies. The descriptions of LAMAS vary greatly in physical characteristics as well as addresses reported. (Tabs 24, 25, 26, 44) One such description of LAMAS included a driver's license and social security number as well as telephone numbers. This individual remains indexed in the Department's criminal database, however there is no evidence that this LAMAS is in any way involved in narcotics trafficking. Lieutenant Ballesteros was questioned to ascertain if Lieutenant Ballesteros utilized established investigative methods. For example, Lieutenant Ballesteros was asked if Lieutenant Ballesteros ever attempted to obtain information from the leasing agent or the Highway Department that would help identify LAMAS. Lieutenant Ballesteros responded "Not that I recall." (Sworn Affidavit of Lieutenant Ballesteros Page 31, line 4) Lieutenant Ballesteros stated under oath "...we could never tell who he (LAMAS) was" (Sworn Affidavit of Lieutenant Ballesteros Page 30, line 18), yet Lieutenant Ballesteros never utilized this basic investigative technique. Lieutenant Ballesteros advised the court via an affidavit that a "Traffic stop was to be conducted to possibly identify Lamas." When asked why the stop was not made, Lieutenant Ballesteros stated "It wasn't me. We had other units out there. They wanted to do a traffic stop. I don't know why it wasn't done. I know we wanted to identify them because we really never had an identification on them." (Sworn Affidavit of Lieutenant Ballesteros Page 34, line 3) Lieutenant Ballesteros was then asked why Lieutenant Ballesteros did not avail himself of this opportunity. Lieutenant Ballesteros reversed Lieutenant Ballesteros' position and responded "We can't. Because if we did, then he would know we were looking at him". (Sworn Affidavit of Lieutenant Ballesteros Page 34, line 13) When confronted with the discrepancies in the physical descriptions of LAMAS, Lieutenant Ballesteros stated under oath "there was about two, three or four different Juan Lamas...So I never really knew which Juan Lamas it was." (Sworn Affidavit of Lieutenant Ballesteros Page 30, line 5). If there were indeed several suspects named Juan LAMAS in this investigation, Lieutenant Ballesteros never made Department supervisors aware of that information nor did Lieutenant Ballesteros ever include that information in the investigative reports. According to Chacon, there was only one Juan LAMAS and Chacon personally showed Lieutenant Ballesteros where LAMAS resided and also provided a telephone and pager number for LAMAS. There is no documented evidence that Lieutenant Ballesteros utilized established investigative techniques to further identify LAMAS or any co-conspirators via business records, telephone records, utility records, or any other methods commonly utilized by narcotics investigators. Failure to follow established procedures was instrumental in the unsuccessful enforcement efforts of Lieutenant Ballesteros.

In File Numbered Investigation N7A-89-080, Lieutenant Ballesteros seized approximately 1558 pounds of cocaine from the LAMAS Organization. No one was ever arrested. Lieutenant Ballesteros submitted status reports on this file, through several changes in supervisors, that on the surface indicated that the case was progressing normally. (Tab 25) Lieutenant Ballesteros then submitted a series of status reports with conflicting information that indicated there were legal problems with the case and that it could not be tried. The Federal Prosecutor involved with the investigation was Assistant United States Attorney

To Disprove

Statement of Jaime Adan Ballesteros

CLASSIFICATION

Count IA - Not Sustained

Count IB - Sustained

EVALUATION

A review of the investigative files revealed that Lieutenant Ballesteros did conduct an investigation involving Juan LAMAS. Lieutenant Ballesteros' investigation of Juan LAMAS encompassed four File Numbered Investigations, namely N7A-89-035, N7A-89-080, N7A-90-009, and N7A-91-007.

In Count IA, Chacon alleged that Chacon, pursuant to authorization from Lieutenant Ballesteros, imported some 1350 pounds of marihuana that was not interdicted, in order to further the LAMAS investigation. During this investigation, there was no independent evidence developed beyond the information provided by Chacon and McLean to substantiate the allegations involving the importation of the marihuana. It seems unlikely that Juan LAMAS would continue to work with Chacon if the only loads Chacon had ever been involved with had been seized. It would be more likely that Chacon had established a good record with the Juan LAMAS group involving multiple loads that had been delivered without any problems which offset the seizures being made. When asked during the sworn interview about the usual course of events involving the seizure of contraband delivered by an informant, Lieutenant Ballesteros' response was that when a load was seized and the informant had delivered the load, "Well usually, when one gets taken down, that's it. It ends." Yet in this investigation, Juan LAMAS continued to deal with Chacon for a period of approximately fifteen months. It would appear that the allegation in Count IA is true, however, due to the lack of corroboration; Count IA should be classified not sustained.

In Count IB, Lieutenant Ballesteros failed to utilize established techniques and methods, consistent with departmental procedures, in conducting the investigation and preparing the necessary investigative reports and as a result LAMAS and other major traffickers associated with LAMAS were never arrested or prosecuted pursuant to this investigation.

Lieutenant Ballesteros authored numerous reports involving LAMAS and LAMAS' associates through four (4) numbered investigative files. LAMAS and the upper echelon members of the organization were never arrested or prosecuted even though approximately 1558 pounds of cocaine and approximately 8700 pounds of marihuana were seized. No viable prosecutions were ever developed by Lieutenant Ballesteros due to poor investigative techniques and methods inconsistent with established departmental procedures.

approximately 1,350 pounds of marihuana on at least four (4) separate occasions into the United States by a smuggling organization known as the LAMAS Organization.

It is further alleged that Lieutenant Ballesteros made no effort, whatsoever, to prevent the importation of that substance into this country even though Lieutenant Ballesteros knew sufficient information at the time of each event to have prevented it.

B. It is further alleged that Lieutenant Ballesteros' enforcement efforts, relative to the said organization, were undertaken through the use of techniques and methods inconsistent with established departmental procedures. For example: two search warrants indicated under file number N7A-90-009 did not articulate probable cause. In addition, they omitted critical pieces of information.

This activity occurred between the latter part of 1990 and the latter part of 1992.

EVIDENCE

To Prove

Statement of Oto Vilmer Chacon
Statement of Robert McLean
CLE-1 dated 10-09-89, File Number N7A-89-035
CLE-1 dated 11-27-89, File Number N7A-89-080
CLE-1 dated 12-06-89, File Number N7A-89-080
CLE-1 dated 01-15-90, File Number N7A-89-080
CLE-1 dated 01-12-90, File Number N7A-89-080
CLE-1 dated 09-14-90, File Number N7A-89-080
CLE-1 dated 02-20-91, File Number N7A-89-080
CLE-1 dated 08-26-91, File Number N7A-89-080
CLE-1 dated 03-18-92, File Number N7A-89-080
CLE-1 dated 11-20-92, File Number N7A-89-080
CLE-1 dated 05-25-93, File Number N7A-89-080
CLE-1 dated 12-02-93, File Number N7A-89-080
CLE-1 dated 07-18-94, File Number N7A-89-080
CLE-1 dated 03-15-95, File Number N7A-89-080
CLE-1 dated 02-16-90, by J. Guzman, File Number N7A-90-009
CLE-1 dated 02-16-90, by R. Brooks, File Number N7A-90-009
Surveillance notes of Federal Bureau of Investigation Agents
Affidavits for Search Warrants, File Number N7A-90-009
CLE-1 dated 02-19-90, File Number N7A-90-009
CLE-1 dated 03-20-92, File Number N7A-90-009
CLE-1 dated 08-18-92, File Number N7A-90-009
Statement of Jaime Adan Ballesteros
Drivers License Photograph of Juan Rios Lamas

INVESTIGATION

This investigation was initiated by the Drug Enforcement Administration Office of Professional Responsibility (OPR) in Washington, D. C. pursuant to a letter dated January 13, 1995 written by Assistant United States Attorney (AUSA) Gloria A. Bedwell of the Southern District of Alabama. AUSA Bedwell, during trial preparation for United States v. Eduardo Quesada Ruiz, Criminal No. 94-000152 (S. D. Ala.), received information from debriefings of at least three (3) defendants in the instant case that indicated that Oto Vilmer Chacon, who was to be a witness, participated in a five hundred (500) kilogram delivery of cocaine. Pursuant to the information received, United States Customs Service Special Agent James C. Tanner, case investigator for the Ruiz investigation, interviewed Chacon relative to Chacon's participation in the five hundred (500) kilogram cocaine delivery. Special Agent (S/A) Tanner approached Chacon with a standard proffer letter from AUSA Bedwell. Chacon indicated that the five hundred (500) kilogram cocaine delivery was part of a larger two thousand (2000) kilogram delivery of cocaine that had been sanctioned by Drug Enforcement Administration Special Agent Thomas K. Solis and Texas Department of Public Safety Narcotics Service Lieutenant Jaime Adan Ballesteros. AUSA Bedwell requested assistance from the Drug Enforcement Administration, Office of Professional Responsibility, in investigating the allegations prior to a trial date. The Drug Enforcement Administration requested that the Department become involved in the investigation due to allegations against Lieutenant Ballesteros. An investigation was conducted and the information is hereby presented for your review.

The following persons were contacted during the course of this investigation:

Sworn Affidavit of Terry D. Bowers, Captain, Narcotics Service, Retired
Sworn Affidavit of Floyd Goodwin, Captain, Narcotics Service, Austin HQ
Sworn Affidavit of Tony Garcia, Captain, Narcotics Service, Austin, District 6
Sworn Affidavit of Urbino Martinez, Sergeant/Investigator, Narcotics Service, District 7
Sworn Affidavit of James Weaver, Sergeant/Investigator, Narcotics Service, District 5
Sworn Affidavit of Larry Hensley, Investigator, 329th Judicial District Attorney's Office
Sworn Affidavit of Oto Vilmer Chacon
Sworn Affidavit of Robert McLean
Sworn Affidavit of Thomas K. Solis, Special Agent, Drug Enforcement Administration
Sworn Affidavit of Armando Ramirez, Special Agent, Drug Enforcement Administration
Interview of James Tanner, Special Agent, U. S. Customs Service, Mobile, Alabama
Interview of Mike Turner, Special Agent, Drug Enforcement Administration
Interview of Enrique Casas

COUNT I.

A. It is alleged that while working in the Narcotics Service, as a Sergeant Investigator, in the McAllen District, Lieutenant Ballesteros permitted the importation of a total of

- II. It is alleged that Lieutenant Ballesteros, in conjunction with Special Agent Thomas K. Solis of Drug Enforcement Administration, permitted the importation of 1,055 kilograms of cocaine into the United States and that Lieutenant Ballesteros was aware of such intended criminal conduct prior to the time that Lieutenant Ballesteros reported it to Lieutenant Ballesteros' supervisors and that Lieutenant Ballesteros misrepresented the facts relative to the activities of the smugglers when Lieutenant Ballesteros did report it to Lieutenant Ballesteros' supervisors. This importation occurred on or about July 6, 1991.
- III. It is alleged that Lieutenant Ballesteros permitted, allowed, and participated in the importation and distribution of 2,000 kilograms of cocaine. It is alleged that such activities took place on July 26 and July 27, 1991 and culminated with Lieutenant Ballesteros' activities on July 30 and 31, 1991 in Wharton, Texas. It is alleged that not only did Lieutenant Ballesteros direct the smugglers to bring the load into the country, Lieutenant Ballesteros arranged for its transportation into Wharton and traveled to Wharton for the purpose of preventing the local police from interfering with the transaction.
- IV. It is alleged that Lieutenant Ballesteros has accepted money from an individual by the name of Oto Vilmer Chacon. It is alleged that Lieutenant Ballesteros received \$2,000 from him in the early part of 1990. It is further alleged that Lieutenant Ballesteros received \$3,000 from him and used it to purchase a computer on March 6, 1990. It is further alleged that Lieutenant Ballesteros received \$15,000 and used it in part to finance a portion of the acquisition of a new suburban from a Chevrolet dealership in San Antonio, Texas on April 27, 1990. It is further alleged that Lieutenant Ballesteros used Lieutenant Ballesteros' knowledge as a member of the Department to avoid running afoul of the federal banking laws, which would require the reporting of transactions in certain cash amounts. It is alleged that Lieutenant Ballesteros received \$50,000 from Chacon shortly after Lieutenant Ballesteros facilitated the importation and distribution of 2,000 kilograms of cocaine. This is alleged to have been a gift as opposed to a bribe.
- V. It is alleged that during the period of times Lieutenant Ballesteros was involved in the activities set out in Counts I through IV, Lieutenant Ballesteros failed to keep Lieutenant Ballesteros' supervisors apprised of Lieutenant Ballesteros' activities. It is further alleged that Lieutenant Ballesteros failed to take up matters affecting Lieutenant Ballesteros and Lieutenant Ballesteros' position with Lieutenant Ballesteros' supervisors. It is alleged that Lieutenant Ballesteros failed to make timely, accurate, and complete reports of Lieutenant Ballesteros' activities. It is alleged that Lieutenant Ballesteros failed to make timely, accurate, and truthful reports of Lieutenant Ballesteros' activities to Lieutenant Ballesteros' supervisors. It is alleged that Lieutenant Ballesteros misrepresented material facts to Lieutenant Ballesteros' supervisors to avoid revealing Lieutenant Ballesteros complicity with and involvement in this controlled substance smuggling organization.

authorizing destruction of the evidence in this file. There is no such letter in the file. Sergeant _____ later petitioned a Justice of the Peace for a Destruction Order and had the evidence destroyed and closed the file without authorization from the federal prosecutor in the case. Again, Sergeant _____ has not been interviewed and it is unknown why this action was taken and authorization was not obtained from the proper authority. (Tab 44)

The failure to follow standard procedures and the utilization of techniques and methods inconsistent with established departmental procedures by Lieutenant Ballesteros allowed major traffickers to go unprosecuted. The reports were haphazardly prepared with continued references to the filing of charges at a later date. The proper follow up investigation was never undertaken and the targets of this investigation were never arrested. Count IB is sustained.

COUNT II.

It is alleged that Lieutenant Ballesteros, in conjunction with Special Agent Thomas K Solis of the Drug Enforcement Administration, permitted the importation of 1,055 kilograms of cocaine into the United States and that Lieutenant Ballesteros was aware of such intended criminal conduct prior to the time that Lieutenant Ballesteros reported it to Lieutenant Ballesteros' supervisors and that Lieutenant Ballesteros misrepresented the facts relative to the activities of the smugglers when Lieutenant Ballesteros did report it to Lieutenant Ballesteros' supervisors. This importation occurred on or about July 5 or 6, 1991.

EVIDENCE

To Prove

- Sworn statement of Urbino Martinez, Sergeant/Investigator, Alice
- Sworn statement of Floyd Goodwin, Captain, Austin, H. Q.
- Sworn statement of Antonio Garcia, Captain, Austin District Office
- Sworn of Statement of Oto Vilmer Chacon
- Sworn of Statement of Robert McLean
- Weekly reports of Lieutenant Ballesteros
- DEA-6 dated 07/08/91, File Number
- CLE-1 dated 09/06/91, File Number N7A-91-009 by Sgt./Inv.
- Interview of Jaime Adan Ballesteros, DEA-6 dated 05/19/95 by Inspector Bruce
- Interview of Thomas K. Solis, DEA-6 dated 05/19/95 by Inspector Bruce
- Telephone records of Oto Vilmer Chacon
- DPS telephone credit card records

To Disprove

- Sworn Statement of Jaime Adan Ballesteros, Lieutenant, Narcotics Service
- Sworn Statement of Thomas K. Solis, Special Agent, DEA

CLASSIFICATION

Sustained

EVALUATION

Lieutenant Ballesteros directed two informants, namely Chacon and McLean, unilaterally without input from Department supervisors, to store approximately 1055 kilograms of cocaine without police supervision. By misrepresenting material facts when reporting to supervisors, Lieutenant Ballesteros was able to completely control the investigation. For example, the two informants, answering only to Lieutenant Ballesteros, were allowed to go into Mexico and smuggle 1,055 kilograms of cocaine into the United States without proper authorization, store the cocaine with no police presence, and completely plan the transfer of the cocaine to the intended recipient. The only person arrested was a courier for the smuggling organization. Lieutenant Ballesteros failed to write a complete and accurate report of this investigation as required by departmental policy. (Tab 37) Evidence shows that the 1055 kilograms of cocaine seized in File Numbered Investigation N7A-91-030 was brought into the country several days prior to it being seized and was stored in a hanger at the Weslaco Airport with no police presence. There is no way to determine the actual amount of cocaine brought into the country as no law enforcement official ever examined the cocaine prior to its seizure on July 10, 1991.

Weekly reports submitted by Lieutenant Ballesteros and telephone records obtained indicate that the load was brought in on July 6, 1991. (Tabs 27,46) According to Chacon and McLean, a meeting was held with Lieutenant Ballesteros and Special Agent Solis prior to making the trip to Mexico to pick up the 1055 kilos of cocaine. Chacon also stated that PARDO had definitely set a deadline on picking up the cocaine due to prior arrangements having to be made in Mexico for security on the airstrip. Chacon does not recall what date PARDO had set as the deadline. Special Agent Solis authored a DEA-6 dated 07/08/91 in reference to the debriefing of Chacon on 07/05/91. (Tab 28) Special Agent Solis stated, in part, in detail five of that report "SM9900017 (Chacon) lastly stated that PARDO was attempting to have the larger load entered into the United States on July 6, 1991." Lieutenant Ballesteros' weekly report for the period indicated in the narrative portion "Travel to Brownsville and met with CS-6 (McLean) and 22 (Chacon) and DEA Solis" on 07/05/91 from 8:00 A. M. until 5:00 P. M. (Tab 27) Department supervisors were not made aware of the load until 07/09/91 or 07/10/91. (Tabs 13, 37)

During Lieutenant Ballesteros' interview of May 16, 1995 (Tab 7) concerning the 1055 kilo load, Lieutenant Ballesteros was inconsistent in his account of the incident. Lieutenant Ballesteros stated that Lieutenant Ballesteros received a call in Austin, Texas at the DPS Academy from Chacon advising that the load was in Weslaco. Lieutenant Ballesteros went on to say that Lieutenant Ballesteros contacted then Lieutenant Floyd Goodwin and Special Agent Solis. Lieutenant Ballesteros indicated that the reason Lieutenant Ballesteros remembered the incident so well was that Lieutenant Ballesteros had to contact then Lieutenant Goodwin who was at a party with other supervisors, possibly at the King Ranch.

1	TEXAS DEPARTMENT OF PUBLIC SAFETY
2	NARCOTICS SERVICES
3	P.O. Box 4087
4	Austin, Texas 78773-0001
5	*****
6	REPORTER: ANGIE HERTEL
7	DATE TAKEN: SEPTEMBER 19, 1996
8	
9	ORAL INTERVIEW
10	OF
11	JAIME ADAN BALLESTEROS
12	
13	
14	ANSWERS AND INTERVIEW OF JAIME ADAN
15	BALLESTEROS, a witness called by the Department of
16	Public Safety taken before Angie Hertel, Certified
17	Shorthand Reporter for the State of Texas, on
18	September 19th, 1996, beginning at 10:10 a.m. and
19	ending at 3:10 p.m., at the Department of Public
20	Safety, Narcotics Services, in Austin, Texas.
21	
22	
23	* * * * *
24	
25	

1 that time?

2 A. He was allowed to keep, I think, what he
3 was making.

4 Q. Do you know who made the decision to allow
5 him to keep the proceeds?

6 A. I don't know. I think it was being
7 discussed with the FBI. It came up in trial and
8 Charlie Lewis with AUSA argued that, you know, he was
9 allowed to keep whatever he was getting paid for.
10 And had the Government had to pay him, it would have
11 been X amount of dollars. Instead, that's what he
12 got paid.

13 Q. Do you recall how much money that DPS may
14 have paid McLean during the period of time that he
15 worked for us?

16 A. During that time, it was nothing. I think
17 maybe later on, it might have been -- I really don't
18 remember. Little things, if any. I really can't
19 recall.

20 MR. EEDS: You said his name came up
21 during the Intercept Investigation and you all
22 arrested him or just brought him in and talked to
23 him?

24 THE WITNESS: I didn't go up to the
25 house when he got picked up. The FBI and DEA went to

1 Q. Where did you call him at?

2 A. I don't know if it was his mobile or at his
3 home or where it was.

4 Q. You don't find that a little coincidental
5 that the two days that the cocaine was brought into
6 the country, you happen to be in the area? And the
7 two days that it's moved to Warton and then onto
8 Houston, you happen to be in the area? You don't
9 find that a little coincidental?

10 A. Well, he got me in the area. He did that
11 to the IRS, also, when he ran loads behind them.

12 Q. Is there documentation he ran loads behind
13 the IRS?

14 A. Yeah, he got busted. That's why he was in
15 prison.

16 Q. That was quite a bit after this, was it
17 not?

18 A. Yeah. But he did it to me, and he did it
19 to them.

20 Q. Were you aware that Chaconne had any
21 problems on a case that was made in Mobile, Alabama?

22 A. No, only when they told me to go get him to
23 testify.

24 Q. Did you ever attend a meeting in Houston,
25 Texas, with McLean, Chaconne, T.K. Solis and Mike

1 Turner, from DEA out of Mexico, to discuss the
2 problems in Mobile?

3 A. Okay. If that's Mobile, yeah. I knew they
4 had asked him in reference to that. I don't know
5 what that was a problem to.

6 Q. And prior to that time, you had no
7 knowledge --

8 A. None.

9 Q. -- of any of that cocaine?

10 A. None. None whatsoever.

11 Q. You had no knowledge of any of the
12 defendants in that case?

13 A. None.

14 Q. This is a newspaper article from the
15 Houston Chronicle dated December the 18th, 1991.
16 Could you read that for me, please?

17 (Witness starts to read the newspaper
18 article in a mumbled voice.)

19 THE COURT REPORTER: Can you start all
20 over and slow down?

21 MR. BRUBAKER: You don't have to read
22 it out loud. Read it until you're familiar with it.

23 (Long pause.)

24 A. Okay.

25 Q. (By Mr. Brubaker) Have you ever seen that

1 article before?

2 A. No.

3 Q. Maybe you could explain to me why it was in
4 your personal copy of this file.

5 A. I don't remember seeing it. The reason
6 it's there, I guess, T.K. put it in there or --

7 Q. Put it in your file?

8 A. When he gave me his reports.

9 Q. There's none of his reports in your file.

10 A. I don't remember seeing this.

11 Q. There's none of his reports in that file,
12 Adan.

13 A. I don't remember seeing this at all. And I
14 don't recall --

15 Q. Do you recognize any of those names?

16 A. No, I don't remember seeing any of this.
17 Or I don't even know who put it in the file.

18 Q. Does someone else have access to your
19 personal files?

20 A. What are you referring to?

21 Q. Your personal copy of this file.

22 A. That's at the office.

23 Q. No, I'm not talking about the office file.
24 I'm talking about your personal copy that you kept.

25 A. I don't know where you got this because

1 I've never seen it before. I don't know how it got
2 in there unless I might have seen it. But I don't
3 remember it.

4 Q. Well, according to Chacon, those people
5 right there lost about 650 something pounds of
6 cocaine. Mr. Pardo was a little upset and thought
7 maybe he had been ripped off. Wanted you all to
8 research the newspapers and see if you could find an
9 article so that he could send it to Mr. Pardo.

10 A. No, that was the one that we took down --
11 that was taken down in Fort Bend County.

12 Q. No, no, I'm talking about this one --

13 A. I'm talking about --

14 Q. I'm Telling you what Chacon said.

15 THE COURT REPORTER: Wait. One at a
16 time or the record is not going to be clear.

17 A. I don't know. I don't know about this, and
18 I don't know what Chacon said.

19 Q. (By Mr. Brubaker) Well, that article was
20 faxed to you, according to Chacon. I have a faxed
21 copy that came out of your personal copy of that
22 file. The defendant in that file also happens to be
23 one of the defendants from Mobile. Chacon told you
24 at that time, according to him, that that was one of
25 the individuals involved in picking up the 2,000

1 kilos.

2 A. That's a lie because I don't remember
3 seeing this, and I don't remember.

4 Q. Coincidences are starting to stack up here,
5 Adan.

6 A. No, it's not.

7 Q. Yes, it is.

8 A. I don't see this -- I didn't see this, and
9 I don't know what he told you.

10 Q. Well, it didn't fall out of the sky. I'm
11 telling you, it was in your file.

12 A. Where in my file? Attached to what
13 report?

14 Q. To this file we've been talking about here
15 (indicating).

16 A. It had to have been attached to a report.
17 What report was it attached to?

18 Q. It was attached -- it wasn't attached to
19 anything. It was in-between the copies of the file.

20 A. You mistakenly put it in there, then,
21 because I did not put it in there.

22 Q. Now it's my fault that it's in there?

23 A. Well, I didn't put it in there.

24 Q. So if we run a finger-print analysis, your
25 fingerprints ain't going to be anywhere on that

1 article? Is that what you're telling me?

2 A. Probably not.

3 Q. Probably not?

4 A. I mean, I don't remember seeing it.

5 Q. Well, it just seems coincidental. Here

6 we've got the same defendants from Mobile appearing

7 in your file in December of '91. You just told me

8 you didn't have any knowledge of the Mobile case

9 until the meeting in Houston, which happened a couple

10 years later.

11 A. Right. Right, when they told me -- when we

12 went to that meeting in Houston.

13 Q. How do you explain that being in your file?

14 A. I can't. I don't even know this is in my

15 file. I never saw it there. Possibly somebody in

16 the office might have seen it and put it in there. I

17 don't know.

18 Q. Why would they put it in your file? Why

19 wasn't it in Juan Lamas' file or why wasn't it in

20 somebody else's file? Why does it happen to be in

21 the file that's involved with Pardo?

22 A. I've never seen this. I don't recall it.

23 Q. After you attended the meeting in Houston

24 to discuss the problems in Mobile, did you report to

25 your supervisor that Chacon had a legal problem

1 involving a load that you allege he run (sic) around
2 you?

3 A. I don't even know what the problem in
4 Mobile was. It was that he was associated with some
5 people there, as I understood it.

6 Q. You all had this big meeting and you
7 traveled all the way to Houston and you didn't know
8 what it was about?

9 A. No, I don't know what mobile was about.
10 That meeting in Houston was in reference to him
11 working in Mexico. That's what the meeting in
12 Houston was about.

13 Q. T.K. and Turner had just come back from
14 Mobile from debriefing these people, and you all did
15 not discuss the fact that Chacona had been implicated
16 in that case?

17 A. I didn't know what case. I just knew that
18 he was involved with some people in -- up there in
19 Mobile.

20 Q. Did you all discuss that Chacona had been
21 implicated in the case in Mobile?

22 A. No, just that he was involved with those
23 people, and that they still wanted him to work.

24 Q. Who is "they"?

25 A. DEA and Customs.

1 Q. There was no discussion that he was
2 involved with a 500 kilo delivery of cocaine to those
3 people in Mobile?

4 A. No.

5 Q. So if T.K. and Turner and Chacon and
6 McLean said that's what happened at that meeting,
7 they're all lying?

8 A. I don't remember that. They did not
9 discuss that. I didn't know that. He was involved
10 with something that went down, and I thought it was
11 in Mobile so I didn't know.

12 Q. Did you advise your supervisors that
13 Chacon had a problem in Mobile?

14 A. I don't remember. Because he was now
15 working in Mexico with DEA.

16 Q. Was he still currently established with us?

17 A. We didn't drop him, so, yes.

18 Q. Well, would the fact that an informant ran
19 500 kilos of cocaine around you be cause for maybe
20 black balling him or at least having a talk with him
21 or documenting something in his file?

22 A. I didn't know that he ran that behind me.
23 I didn't know.

24 Q. You were at this meeting, were you not?

25 A. But it wasn't in reference to that, that I

1 can recall. It wasn't in reference to him running a
2 load behind me. He did something up in Mobile.

3 Q. Well, did you report "that something" to
4 your supervisors? Did you write it up in his file?
5 Did you try to take any disciplinary action against
6 him?

7 A. No, because he was still being used. They
8 wanted to see if he can still work.

9 Q. Was there any discussion of the prosecution
10 of Chacon on that cocaine case?

11 A. I don't recall.

12 Q. Did you ever talk with the US Attorney or
13 any prosecutor about prosecuting Chacon on that
14 case?

15 A. On which case?

16 Q. The 500 kilos of cocaine.

17 A. I didn't know that he was involved with 500
18 kilos of cocaine.

19 Q. Well, how is it you attend this meeting and
20 don't remember that? That was the whole purpose of
21 the meeting. They flew straight from Mobile to
22 Houston.

23 A. Well, I knew that they were in Houston. I
24 don't know if I went with them from here to Houston,
25 but I met them in Houston. And it was -- the meeting

1 was in reference to having him work in Mexico.

2 Q. Was that meeting not -- the meeting place
3 not arranged by your brother?

4 A. Yeah, there in the ATF's office.

5 Q. Well, how is it that Turner and Solis and
6 Chacone and McLean all remember the meeting and
7 exactly what went on?

8 A. I don't know. I don't even remember if
9 Chacone was there, or even McLean, at that meeting.
10 I don't think they were at that meeting.

11 Q. Yes, they were at the meeting.

12 A. Excuse me?

13 Q. They were at the meeting. I'm telling you,
14 everybody acknowledges they were at the meeting,
15 everybody else but you.

16 A. I mean, we were at the meeting in Houston,
17 but I don't know who else was there. I know Turner
18 was and T.K. was and I was.

19 Q. So were the two informants.

20 A. I don't recall that.

21 Q. You don't find it unusual that somebody
22 wouldn't have been a little bit upset that Chacone
23 allegedly run (sic) 500 kilos of cocaine around them?

24 A. Who are you referring to?

25 Q. You or T.K. or DEA supervisors or DPS

1 his house. And he -- I think -- I don't know what
2 they told him, but he came in later and said he
3 wanted to cooperate. And then he started working.

4 MR. EEDS: And he came in and talked
5 to you or who?

6 THE WITNESS: He talked to the FBI.

7 MR. EEDS: And how did you become the
8 controlling agent of it?

9 THE WITNESS: Because Joe Garza and
10 the FBI were a part of the same investigation, and
11 then they just brought me in because I was being
12 trained by Joe Garza. So that's how that happened.

13 Q. (By Mr. Brubaker) Are you familiar with
14 the informant Oto Chacone?

15 A. Yes.

16 Q. Can you tell me how and when Chacone came
17 to be an informant for you?

18 A. I don't know if it was '88 or '89. McLean
19 said that Oto had approached him prior because Oto
20 was doing -- they call it fiuca (phonetic) -- running
21 electronics to Mexico. And the Mexicans had taken
22 some money from him, or his loads, or were ripping
23 him off. And he wanted to -- I don't know if Bob
24 told him or how it happened -- but he told Bob at one
25 time, if he wanted something -- if you wanted to fly

1 supervisors.

2 A. Yes, they would have been upset.

3 Q. Well, then how come nothing happened to
4 Chacone?

5 A. I didn't know. I didn't know that that
6 happened.

7 Q. Did you know why he wasn't prosecuted in
8 Mobile?

9 A. I guess because he cooperated. He was to
10 get prosecuted, but they wanted him to cooperate and
11 testify.

12 Q. Did you ever meet with Special Agent Tanner
13 from United States Customs Service out of Mobile?

14 A. I've heard of him. I don't remember if I
15 met him or not.

16 MR. BRUBAKER: Let the record reflect
17 that Captain John Hatcher will now be sitting in on
18 this interview.

19 Q. (By Mr. Brubaker) Let's back up a little
20 bit here, again. Adan, we've got two -- we know the
21 two loads of cocaine came into Weslaco. You're in
22 the area both times. It was transferred to Warton on
23 two separate days. You were there both times.
24 You've got this article in your file that deals with
25 defendants out of the Mobile case that took part of

1 that load of cocaine.

2 The coincidences are starting to build up,
3 but yet you have no knowledge of this?

4 A. No.

5 Q. Did you and T.K. ever have any discussions
6 after the load that was taken down in Richmond of
7 letting a load go to facilitate this investigation?

8 A. No.

9 Q. Well, if T.K. says you did, then he's
10 lying?

11 A. He's lying.

12 Q. And McLean --

13 A. Just like he lied to me in reference to the
14 reports that Chacono got abducted. I found out later
15 that he didn't.

16 Q. T.K. Solis told you that he wrote a report
17 saying that Chacono was abducted?

18 A. He didn't tell me he wrote a report. He
19 told me that he was held ransom. And Oto told me he
20 was held ransom. That's why they needed to show the
21 strip on the 30th.

22 Q. Well, if he was held for ransom, how did he
23 get back to the United States?

24 A. Pardo paid \$3 million for him, according to
25 him.

1 Q. Did you document that in any report?
2 A. No, I told Floyd.
3 Q. Why didn't you document that in any report?
4 A. I just didn't.
5 Q. Did you write-up any kind of intelligence
6 report indicating that Chacona had seen 22 tons of
7 cocaine in Mexico?
8 A. I mentioned it to Floyd. I told Floyd
9 about it.
10 Q. But you don't think that was significant
11 enough to document in a report?
12 A. DEA was going to go down there, and they
13 were trying to get the CI to go down there. I don't
14 know if I did or not, also.
15 Q. So after this meeting in Houston, the next
16 time any mention was made to you of the Mobile case
17 was when you went to interview Chacona at Big
18 Spring?
19 A. Yes. And that was that Mobile called T.K.
20 and they wanted us to go ask him if he would
21 cooperate and testify.
22 Q. Is there some reason that T.K. did not go
23 on that trip?
24 A. I have no idea. He told me he was going to
25 go.

1 Q. What did you and Chacono talk about when
2 you interviewed him at Big Spring?

3 A. I was told by T.K. that someone from Chili
4 or Peru, that he knew, was -- he was involved with
5 them and that Customs wanted him to testify on them.
6 And he said, "I don't know what you're talking about,
7 you know. I don't know anybody from whatever." And
8 I said, "Well, one of the those places, and they just
9 want you to testify." He said, "Well, I don't know
10 anything. I said, "Well, they want you to
11 cooperate." And he said, "Okay. Well, just have
12 them come talk to me here because I don't want to go
13 over there."

14 Q. Why would McLean and Chacono make up this
15 story?

16 A. I don't know.

17 Q. They both tell the same story,
18 independently of each other, and they hadn't seen
19 each other in several years because Chacono was
20 incarcerated.

21 A. Yeah, Bob said he went to talk to him.

22 Q. Not according to Bob.

23 A. Well, apparently he did.

24 Q. Did you have any phone conversations with
25 McLean after this came to light and DEA/OPR became

1 involved in the case?

2 A. Yeah, McLean called and said they wanted to
3 talk to him.

4 Q. And what did you tell McLean?

5 A. I said, "Talk to him."

6 Q. And did you talk to McLean after the
7 interview?

8 A. He told me he was going to call me back.
9 And I needed to go somewhere, so I wasn't going to be
10 at the office. So I called him and let him know I
11 was not going to be there.

12 Q. And what transpired in that conversation?

13 A. He just told me that you all went and
14 talked to him. And I said -- I think he was still in
15 bed.

16 Q. You didn't discuss the content of that
17 interview?

18 A. No.

19 THE COURT REPORTER: Did you say he
20 was sick in bed or still in bed?

21 THE WITNESS: Still in bed. That's
22 what it sounded like.

23 Q. (By Mr. Brubaker) You've indicated a
24 couple times here that T.K. lied to you. Could you
25 elaborate on that a little bit, please?

1 A. My attorney later on said that he made a
2 report saying -- about him being abducted, and I
3 always took that for true. And my attorney told me
4 that it wasn't true.

5 Q. At the time that the load that was taken
6 down in Fort Bend County was made, are you saying he
7 lied to you about any aspect of that case at that
8 time? Or you found out because of this report that
9 it was a lie?

10 A. It was after the take-down in reference to
11 Chacono being abducted, being held for ransom.

12 Q. And you were saying that Chacono was
13 scared?

14 A. Yes.

15 Q. Well, if he was so scared, why would he go
16 back down there and pick up another load or two
17 loads?

18 A. See, when he went, it was after the Fort
19 Bend County load that he said he needed to go down
20 there. If he didn't go down there, then that proved
21 that he was responsible for that load being taken
22 down.

23 Q. So he came back after that. You said he
24 was scared; is that correct?

25 A. Not any more because Pardo, the one he was

1 associated with, paid \$3 million for him for that
2 load, according to him.

3 Q. So that made him feel okay so he wasn't
4 scared no more?

5 A. Apparently not, although he still needed to
6 prove that that strip was cool. And they still
7 wanted to bring in some cocaine so they wanted to see
8 that strip -- another strip so when they came in to
9 show him. That's why we went to Freer and to Corpus
10 Christi the day before.

11 Q. So it was their intent to bring the cocaine
12 from Mexico directly to those strips?

13 A. To show them what strips they can use. I
14 mean, we hadn't even discussed about any cocaine
15 coming in.

16 Q. And Warton was one of those strips?

17 A. No, Warton was the strip that they were
18 going to prove that it was okay, show them that it's
19 a good strip, a good location.

20 Q. And what strip were they supposed to use if
21 they brought in any more cocaine?

22 A. It depends. You know, we would let them
23 have their option. You don't tell them, "Hey, come
24 into this one." Then, it looks like you're the one
25 that's having them go here. And if it gets taken

1 down, it's your fault. So we let them pick where
2 they want to go.

3 Q. And where did they pick?

4 A. They didn't pick because it didn't happen.

5 Q. So those people that came into Warton on --
6 with Chacone and McLean never looked at any strips?

7 A. I don't know.

8 Q. You never debriefed Chacone and McLean
9 after that incident?

10 A. I asked -- yes, I asked who came in. They
11 told me.

12 Q. And what was those peoples' role within the
13 organization?

14 A. Well, it wasn't who I thought was going to
15 come in. They said it was a man, and it was a female
16 that came in.

17 Q. And what was the female's role within that
18 organization?

19 A. I don't know. She was going to report back
20 to them.

21 Q. And what is it she was to report back?

22 A. I don't know. I guess to say that the
23 strip was okay.

24 Q. And how was going to the strip and landing
25 and getting out and looking at it going to prove that

1 it was okay?

2 A. That's up to Oto.

3 Q. That it was what?

4 A. I don't know.

5 Q. Did you debrief them after that trip or

6 not?

7 A. No. I would talk to them on the phone.

8 And he said, yeah, that they came in. And that she

9 saw it, and she went back to report it. She felt

10 that it was okay." And they were talking about

11 bringing in some loads.

12 Q. What was this lady's name?

13 A. I don't know.

14 Q. You didn't ask Chacon?

15 A. Yes.

16 Q. Did he provide it for you?

17 A. No.

18 Q. Why not?

19 A. I don't know. I don't know if he knew or

20 not.

21 Q. And what was the purposes for you being in

22 Warton again?

23 A. To talk to Larry in reference to

24 apologizing for him because he was not involved in

25 Fort Bend. Also, because T.K. wanted me to go down

1 there in case Pardo came in so we can make
2 arrangements to arrest Pardo.

3 Q. Why didn't T.K. come with you?

4 A. I don't know.

5 Q. So if T.K. had told you to go to Arkansas
6 and wait on him, you would have went?

7 A. I couldn't go to Arkansas without
8 permission. Although, I asked permission to go here,
9 you know, it's easier to go to Warton than it is to
10 go to Arkansas.

11 Q. Why did T.K. not want to go himself? I
12 mean, if he had a chance to arrest Pardo, that would
13 be the crown jewel in all of this mess, wouldn't it?

14 A. I don't know.

15 Q. You kind of stated that DEA took over the
16 case from you. And here was your opportunity to
17 arrest Pardo if he came in and TK was going to pass
18 that opportunity up?

19 A. I don't know.

20 Q. Did you ever receive any money from Oto
21 Chacon?

22 A. No.

23 Q. Did you ever receive any gifts from Oto or
24 McLean?

25 A. No.

1 something -- or something to that effect -- that if
2 you can call on him so he did.

3 Bob told me and we went ahead and worked
4 him and set up a deal where he wanted Bob to go to
5 Mexico with one of his people to pick up some
6 marijuana. So we made them come over to an airstrip
7 in Edinburg to pick up some fuel. That was the
8 pretext we were saying. So when the guy landed with
9 Bob, we arrested him on the strip. So Chacone
10 thought -- he was supposed to be north of Freer
11 waiting for the airplane.

12 So we kind of timed it to see what it would
13 take for the plane to go down there and come back.
14 You know, what time it would get there, hoping that
15 Oto would be there. Oto didn't show up so we picked
16 him up later and charged him with conspiracy. Then,
17 he decided to cooperate, and that's when he became an
18 informant.

19 Q. All right. At that time, was DPS the only
20 agency that was working that case?

21 A. FBI.

22 Q. I see. Did Chacone also become an
23 informant for the FBI at that time?

24 A. Yes, if I can recall. Yes. After a
25 while -- let's see. We paid him -- the FBI --

1 Q. Did they ever provide you with a portable
2 aircraft radio?
3 A. Yeah. They let me use one, yes.
4 Q. But you didn't keep it?
5 A. No.
6 Q. You were never given a scanner as a gift?
7 A. No, they had one because they were
8 bragging -- well, not bragging. It's just -- it had
9 just come out and it had 400 some odd channels.
10 Q. Were you ever given a pair of binoculars
11 for a gift?
12 A. No.
13 Q. Do you know if T.K. was ever given any
14 money by Chacona?
15 A. No, I don't know.
16 Q. Do you know if T.K. was ever given any
17 equipment?
18 A. No.
19 Q. Do you know if T.K. was ever given a
20 cellular phone by Chacona?
21 A. No.
22 Q. "No," you don't know, or, "No," he wasn't
23 given one?
24 A. No, I don't know.
25 Q. Do you know if T.K. was ever offered a trip

1 to Hawaii, after getting out of the hospital, for
2 himself and his wife by Chacone?
3 A. No, I don't know.
4 Q. Do you know if T.K. was ever offered a
5 Rolex watch by Chacone?
6 A. No.
7 Q. Did you ever make a loan from Chacone?
8 A. No.
9 Q. Did you ever ask Chacone for money to
10 purchase a computer?
11 A. No.
12 Q. Did you purchase a computer during this
13 time?
14 A. I did not.
15 Q. Excuse me?
16 A. I did not.
17 Q. During the time Chacone worked for you, you
18 never purchased a computer?
19 A. I had a computer but -- yes.
20 Q. When did you purchase the computer?
21 A. I don't remember.
22 Q. How much did the computer cost?
23 A. That was about 15 or \$1,600.
24 Q. How did you pay for the computer?
25 A. I paid cash on that one.

1 Q. Did you draw the cash out of the bank?
2 A. No, money I had.
3 Q. You're walking around with \$1,500 in your
4 pocket?
5 A. No, not my pocket.
6 Q. Where did the money come from?
7 A. Home.
8 Q. You keep that much money at the house?
9 A. Yes.
10 Q. For what purpose?
11 A. Well, saving it.
12 Q. You were saving it?
13 A. Yes.
14 Q. What kind of computer did you buy?
15 A. The one that I have is a Nepson
16 (phonetic). I don't even know what number it is --
17 LX-800.
18 Q. Where did you buy it from?
19 A. From 10th and Nolana. I can't remember the
20 store.
21 Q. Did you buy anything else with it at the
22 time?
23 A. On that computer?
24 Q. A printer or anything?
25 A. Yeah, I got a printer. And the monitor

1 comes with it.

2 Q. The total bill was about \$1,500?

3 A. I don't remember what the exact bill was,
4 but I think it was about that or --

5 Q. How was this machine configured?

6 A. What do you mean?

7 Q. What processor did it have, how much
8 memory, the hard drive?

9 A. I don't know. I think it's 20.

10 Q. Would you agree that computers were quite a
11 bit higher back then than they are now?

12 A. Yes -- well, I don't know. I don't know
13 how much -- I haven't been trying to buy any right
14 now, lately.

15 Q. Did Oto know you had a computer?

16 A. Does he know I have a computer? I don't
17 know. I think he does.

18 Q. Did you ever show it to him?

19 A. No.

20 Q. Did you ever discuss it with him about
21 buying it?

22 A. About this one, yeah. He knew -- I think
23 he knew about it.

24 Q. Did you tell him how much you paid for it?

25 A. No.

1 Q. Examine that receipt. Does that look like
2 the receipt for your computer?
3 A. Yeah.
4 Q. That's in excess of \$2,700; is that
5 correct?
6 A. Yes.
7 Q. So if Chacona says he loaned you \$3,000 for
8 a computer, that's pretty close, isn't it?
9 A. No.
10 Q. \$2,700 and \$3,000 is not close?
11 A. He didn't loan me any money.
12 Q. How would he know about the computer and
13 how much it cost?
14 A. I don't know.
15 Q. Just a lucky guesser?
16 A. I don't know.
17 Q. Did you ever receive a loan from Chacona to
18 purchase a suburban?
19 A. No, I didn't.
20 Q. Did you purchase a suburban?
21 A. Yes, I did.
22 Q. How did you purchase it?
23 A. I put money down, and I got a loan from the
24 bank.
25 Q. Where did the money come from that you put

1 down?

2 A. My money. Money I had.

3 Q. You drew all of the money that you put down
4 out of the bank?

5 A. No, not from the bank. The loan, I got
6 from the bank.

7 Q. Where did the cash money you put down come
8 from?

9 A. From money that I had been saving.

10 Q. And where were you saving it?

11 A. Where? At home.

12 Q. How much did you put down on the vehicle?

13 A. I put \$4,000 -- close to \$5,000 in San
14 Antonio. And I think -- I wanted to get my payments
15 down -- that was about \$8,000 at the bank. So the
16 remainder was \$11,000 that I had to finance.

17 Q. So you put \$4,000 down at the dealership?

18 A. \$4,000 something -- close, somewhere around
19 there.

20 Q. And then you did what?

21 A. And then I went to the bank to finance it.
22 And I needed to get my payments down to a certain
23 amount that I wanted to pay per month, so then I
24 put -- I got an \$11,000 loan. And the rest I put
25 cash. I think it was about \$8,000.

1 Q. Where did that cash come from?
2 A. From me.
3 Q. From where, the bank?
4 A. From my savings.
5 Q. Out of your savings account?
6 A. No, from the one that I saved at home.
7 Q. You kept \$8,000 at the house?
8 A. I had more than \$8,000 at the house.
9 Q. How much money did you have in the bank at
10 that time?
11 A. I had money in the bank, also.
12 Q. Did you have more money in the bank than
13 you had at the house?
14 A. I don't remember. No -- I mean, it's about
15 the same.
16 Q. Do you always keep large sums of currency
17 at your house?
18 A. Up until 1990, when I got sued for
19 divorce.
20 Q. You got sued for divorce in 1990?
21 A. I mean, for more money for my divorce.
22 Q. So you were hiding money, is that what
23 you're telling me?
24 A. I was keeping money. The reason I was
25 keeping money is in case that I had from

1 that

2 Q. Why would you think she was going to get
3 ?

4 A. Because my
5
6

7 Q. So rather than save money in the bank where
8 you could be earning interest on it, you were keeping
9 it at the house?

10 A. Yes.

11 Q. So you put, what, \$13,000 down on this
12 vehicle, roughly?

13 A. Let's see, about 12 or 13, somewhere around
14 there.

15 Q. So you won't have any problem signing a
16 release to allow us access to those bank records
17 where that transaction occurred?

18 A. No.

19 Q. Did you ever receive \$50,000 in cash from
20 Oto Chacon?

21 A. No.

22 Q. So you put 12 or \$13,000 down on this
23 vehicle. Oto said he loaned you \$15,000. That's
24 pretty close?

25 A. He knew I was going to buy one.

1 Q. You cut all your business up with him and
2 told him exactly how much you were going to pay for
3 this and how much you needed to put down?

4 A. We would drive around, he would want to
5 meet and we would go different places. And he knew I
6 was buying a suburban. In fact, when I went to get
7 the suburban, he wanted to meet. And I said, "I
8 can't. I'm going to get my suburban in San Antonio."

9 Q. He knew all of your financial arrangements?

10 A. Not all of them. How can he know that? I
11 mean, no.

12 Q. That's what I'm asking. How could he get
13 that close to a figure on the amount you put down?

14 A. I have no idea.

15 Q. How could he get that close to the amount
16 you put down on the computer if it wasn't true?

17 A. Well, just like Ricardo Garza was able to
18 do credit checks. I have no idea.

19 Q. If you paid cash for it, there's no -- it's
20 a cash receipt. There's no credit check on that
21 computer.

22 A. I have no idea. I don't know.

23 Q. Do you see, Adan, all these coincidences?
24 I mean, you just -- everybody else is lying but you?

25 A. I'm not lying.

1 Q. That's what I'm saying. Everybody else is
2 lying, all these records don't mean nothing, is that
3 what you're telling me? Something is not right here,
4 Adan. I mean, did you let -- did you discuss letting
5 a load go to facilitate -- did you let it go? Did
6 you know about it?

7 A. No.

8 Q. Then, you act like this investigation -- I
9 mean, you just kind of drop it. And here the best
10 informant you've ever had comes back and tells you he
11 saw 22 tons of cocaine. I think that would be
12 something to get a little excited about.

13 A. We were excited.

14 Q. You kind of dropped it.

15 A. The DEA was working it.

16 Q. There's no more reports to speak of. What
17 were you all doing?

18 A. Because nothing happened. T.K. gave me
19 reports. Didn't you see my file? You seem to find
20 things in my file. Look at the DEA-6s he gave me.

21 Q. That's what I was telling you. There
22 wasn't any in there, Adan.

23 A. They're in there.

24 Q. If they were in there, they're not in there
25 now.

1 something came out and said, "Well, you know, if
2 we're going to pay him, he has to be solely our
3 informant." So we ended up just paying him. But
4 they still used him, and he would inform for them
5 also.

6 MR. EEDS: Why were we paying him if
7 he was working off a case?

8 THE WITNESS: We didn't until he
9 worked off the case.

10 MR. EEDS: After he worked off the
11 initial case?

12 THE WITNESS: Yeah, then we started
13 paying him.

14 MR. EEDS: And who made that
15 decision?

16 THE WITNESS: I don't know if it was
17 AUSA or who it was. I don't know.

18 MR. EEDS: You don't know if it was
19 who?

20 THE WITNESS: I don't know if it was
21 the AUSA or who it was.

22 MR. EEDS: But he was strictly our
23 informant at that time?

24 THE WITNESS: No, FBI's also. So we
25 were working the case with the FBI.

1 A. They're in there, unless they got sent to
2 Alabama. Because they called me and they wanted
3 reports. And I called McAllen and told them to pull
4 out everything I had on Pardo and send it to them.

5 Q. That's documented on the outside of that
6 jacket. But, I mean, that's the McAllen file. I'm
7 talking about your personal file here. The one that
8 you kept in your desk.

9 A. I didn't have everything in there.

10 Q. You didn't have everything in there?

11 A. No. What desk are you referring to?

12 Q. The one you had while you were in McAllen?

13 A. I left that in McAllen?

14 Q. Yes, sir. Were you actively pursuing this
15 case after the Richmond seizure?

16 A. DEA now was using him in Mexico. So -- I
17 mean, I can't do anything in Mexico, and he's
18 reporting to T.K. I can only go by what he's
19 doing -- what T.K. tells me.

20 Q. And what did T.K. tell you was going on?

21 A. Nothing. Just when he gave me the
22 report -- because I finally asked him for reports,
23 and he said he would give me some, and he never did.
24 And I got some, and I put them in the file -- not in
25 the personal file. I think it was filed in the file

1 at the office.

2 Q. Well, I have the office file and it's not
3 in there.

4 A. Well, I put a cover sheet on it.

5 Q. I'm telling you, there's no DEA reports in
6 that file. I don't know what happened to them, but
7 they're not in there.

8 A. They ought to be in there. The cover sheet
9 looks just like this (indicating). And then behind
10 it is just a brief summary, and then the reports are
11 behind it, his reports.

12 Q. Do you know why this article would have
13 been in your personal file?

14 A. This is Garcia-Abrego organization, I
15 think.

16 Q. Why don't you peruse that article a little
17 bit and tell me what it deals with.

18 A. Soldier A Fortune. It says, "US says hired
19 informant smuggles on the side."

20 Q. It kind of goes along with the topic we've
21 been talking about. Why would you be so concerned
22 about that to put that in your file, the same file?

23 A. I don't even know why it's in there. In
24 fact, I don't even remember leaving a file in there.

25 Q. Well, it's in there.

1 A. Who put it in there?

2 Q. Well, it was your file. I don't know.

3 A. Was it a conspiracy? Are you putting that
4 file -- I thought I had taken everything.

5 Q. Well, you left a box behind, Adan. This
6 ain't the OJ trial. There ain't no conspiracy here,
7 as much as you might like it to be.

8 These are your weekly reports for August
9 1991. Would you read me the date on -- I mean, the
10 activity on August the 1st?

11 A. "Traveled" -- "in McAllen DPS office
12 working in and among reports."

13 Q. Okay. Would you read the entry for August
14 the 2nd?

15 A. "Traveled to Weslaco and Harlingen with
16 CS-6. Reference, narcotics investigation."

17 Q. Okay. Would you read me the entry for
18 August the 5th, 1991?

19 A. "In McAllen DPS office and traveled to
20 Weslaco. Reference, narcotics investigation. In
21 Harlingen, assisting Special Investigator Cavazos on
22 investigation."

23 Q. Could you read the entry for August the
24 9th, 1991?

25 A. "Traveled to Weslaco and met with T.K."

1 Solis, DEA, and CS-6 at DPS McAllen office."

2 Q. The next whole week you were off; is that
3 correct?

4 A. Yes.

5 Q. That would have been the week of 8-11-91
6 through 8-17 of '91?

7 A. Yes.

8 Q. Could you read the entry for 8-27 of '91?

9 A. "Traveled to Brownsville and met with
10 CS-22. Reference, narcotics investigation. Met with
11 AUSA John Cruz and FBI SA Victor Bazan and SA Ray
12 Gonzales."

13 Q. And could you read the entry for 8-30 of
14 '91?

15 A. "At McAllen DPS office and met with CS-6.
16 Reference, narcotics investigation."

17 Q. Most of these entries dealt with you
18 meeting with McLean, is that true?

19 A. Yes.

20 Q. What happened to Chacon during this period
21 of time?

22 A. I don't know.

23 Q. Sorry?

24 A. I don't know.

25 Q. You don't remember having any contact with

1 Chacone during that time?

2 A. He might have paged me or called me. I
3 can't recall.

4 Q. Do you know where he would have been?

5 A. I don't know. I have no idea. I think he
6 was out-of-town or something.

7 Q. Where was he out of town at?

8 A. I don't know.

9 Q. Well, if you recall, all the entries in
10 July indicated, pretty much, you were meeting with
11 both of those two informants.

12 A. Yes.

13 Q. Now, all of sudden, you're just meeting
14 with McLean. It's like Chacone dropped off the face
15 of the earth.

16 A. I don't know where he's at. He was
17 out-of-town or -- I don't know if he was on vacation
18 or -- I don't know what he did.

19 Q. He was out-of-town. That's when he was
20 getting rid of the cocaine.

21 A. I don't know.

22 Q. He indicates he had daily contact with you,
23 reported all of his activities.

24 A. No, he didn't.

25 Q. Do you recall the interview that Special

1 Agent Gilbert Bruce and I had with you in San Antonio
2 back in 1995?

3 A. Not all of it.

4 Q. But you do recall that we did have a
5 meeting and an interview?

6 A. Yes.

7 Q. At the time of that interview, you
8 couldn't -- didn't have any idea why you were in
9 Warton on those days. And now, all of a sudden,
10 you're relatively positive why you were there. How
11 come you change?

12 A. Well, when I get there, you don't tell me
13 what's going on. All of a sudden, you're popping
14 things in front of me. I couldn't recall because I
15 couldn't remember until you showed me that I was
16 there at the hotel.

17 And then you tell me that he brought in so
18 much cocaine. I said, "No, that couldn't happen" I
19 got upset. I even told you, "That did not happen.
20 That's not true." And that's where most of that was
21 directed to. And shortly after that, if I can
22 recall, that's where that ended.

23 Q. At that time, you also told us that it was
24 your understanding that Oto and Bob had flown to
25 Mexico to check out a strip and they came back

1 loaded, which would have been the El Campo load.

2 A. No.

3 Q. That's what you told us. That's what I'm
4 saying, I don't know why the change in the story
5 now.

6 A. What did I say? What did I say?

7 Q. I told you what you said. "They flew down
8 to check a strip and they came back loaded."

9 A. I did not say that.

10 Q. Yes, you did.

11 A. I didn't say that.

12 Q. You also indicated that it took several
13 days of discussions back and forth between DEA and
14 DPS about the load that was going to be taken down.
15 That DEA wanted it taken off closer to them and that
16 Floyd wanted to do a traffic stop.

17 A. Boy, I don't remember that.

18 Q. And it's your best recollection that when
19 that load was taken off into Richmond -- do you
20 recall whether or not there was ever any discussions
21 between you or T.K. or any of the supervisors in any
22 formal meetings or informal meetings held to discuss
23 the situation with the Mexico DEA office?

24 A. What are you referring to?

25 Q. About them being upset about the load.

1 A. Afterwards?
2 Q. Yes.
3 A. Yeah, that's why we met in that hotel with
4 Castillo and that DEA -- Castillo and me and T.K.
5 And I couldn't recall if they were upset. I just
6 knew about that egg that they mentioned and talked
7 about. And they wanted to get these people.
8 Q. Did T.K. routinely provide you copies of
9 his reports?
10 A. No.
11 Q. But he did provide you some copies of his
12 reports?
13 A. I got some.
14 Q. Did you have to sign any kind of
15 authorization or clearance to allow those to leave
16 the DEA office?
17 A. I don't recall. I don't remember.
18 Q. And you're sure that you placed those in
19 some file, either the office file or your file,
20 attached with a cover sheet, CLE-1?
21 A. Yes, I can recall that's what I did. I
22 think one of them, I kind of looked at what the
23 report was and I wrote a report on it. Then, like he
24 gave me -- I don't know how many reports there were.
25 I said, "That's too much to, you know, try to do a

1 report on," so I just cover-sheeted it.

2 Q. Were copies of those reports made to send
3 up here to the headquarter's file?

4 A. It was given to the secretary to make a
5 file of it.

6 MR. BRUBAKER: Why don't we take a
7 five-minute break and we'll come back and wrap this
8 thing up.

9 (Brief recess.)

10 MR. BRUBAKER: Just a couple things I
11 want to try to get cleared up in my mind, Adan,
12 concerning the money issue, for one thing.

13 Q. All right. You indicated you had -- you
14 were saving money at the house. And that's where the
15 money for the computer and the money for the down
16 payment came from; is that correct?

17 A. Yes.

18 Q. When did you begin saving money at the
19 house in that manner?

20 A. About '82.

21 Q. And where did that money come from? Did
22 you deposit your check and withhold part of it and
23 begin to save it?

24 A. Yeah, cash it and used it and stuff like
25 that.

1 Q. How much money did you actually have at the
2 house?
3 A. About \$17,600 something.
4 Q. How many people do you know keeps (sic)
5 that much money at the house?
6 A. I don't know.
7 Q. Besides attorneys?
8 A. I don't know.
9 Q. Does anybody else know that you were saving
10 that money at the house in that manner?
11 A. I did.
12 Q. Just you alone?
13 A. Yeah. I mean, I put money aside because of
14 that reason. Because in case that happened to come
15 up.
16 Q. But you never discussed saving that money
17 at the house that way with anybody else?
18 A. No.
19 Q. Did you ever have any problems meeting your
20 obligations?
21 A. No. Every time I got paid, that's when I
22 sent it off.
23 Q. And how do you pay your .?
24 A. Cashier's -- money order.
25 Q. Do you take that from the cash that you

1 have at the house or how do you pay that, out of your
2 paycheck?

3 A. Yeah. When I deposit it -- when I deposit
4 some money, I cash some money (sic).

5 Q. Have you ever been late on a
6 payment?

7 A. I think once -- not that I was late. It's
8 just, I don't think she got it. It went off to -- I
9 pay to the office. But, no, I paid
10 every time. I think maybe she called once and asked
11 where it was. And it was sent, and I had the money
12 order for it.

13 Q. Do you recall if there was ever an occasion
14 where she might have called the Department to
15 complain about not getting --

16 A. She was mad, I'm sure.

17 Q. I mean, were there incidents where she
18 called?

19 A. Yeah, she would call the office looking for
20 me. She always got paid, always got paid, never ever
21 never missed.

22 Q. Did you ever discuss having any kind of
23 financial problems with Oto?

24 A. No. He knew that trial was coming up. I
25 was pissed.

1 MR. EEDS: Okay.

2 Q. (By Mr. Brubaker) Can you remember what
3 the first cases that he made where he was working off
4 his cases were, what they involved?

5 A. He went ahead and testified on the thing
6 that we picked him up on, the conspiracy, so he did
7 that. Then, after that, I think it was the National
8 Guard thing that we did.

9 Q. He wasn't paid for any of those?

10 A. Not for the first one -- not for giving the
11 information on that one. But I'm not too sure on the
12 National Guard deal, if we paid him on that or not.
13 I can't recall.

14 Q. Do you remember when that was that you
15 established he was an informant?

16 A. '89 or '88, somewhere in there. I don't
17 remember.

18 Q. How long did you all continue to work with
19 the FBI?

20 A. Until 1990, '91. We always worked with
21 them. But up around then, we started working with
22 DEA and Customs.

23 Q. During the time that you were working with
24 the FBI, are you aware of any loads that Chacon
25 brought into the country that the FBI allowed to go

1 Q. For the increase in ?
2 A. Yes. And I really got mad because I put
3 her on my insurance when I didn't have to. And that
4 was just in case she got . And
5 then, when I got ordered to that and dental and
6 medical, I said -- well, I got mad. I said, "Well,
7 I'm just going to use the money I was saving just in
8 case something happened and use it on me."
9 Q. And that's when you bought the suburban?
10 A. Yes.
11 Q. Do you still keep money at the house in
12 that manner?
13 A. I keep some. I have cash money. I keep
14 money.
15 Q. How much do you have at the house now?
16 A. I don't know, maybe about \$1,200.
17 Q. Were you keeping the money in a safe or
18 where were you keeping it?
19 A. In a safe.
20 Q. Do you still have that safe?
21 A. We've got a bigger one.
22 Q. A bigger one. When you put the cash money
23 down on the vehicle, were there any CTRs filled out?
24 A. I don't know.
25 Q. Back to the trip to Warton on the 30th and

1 31st of July, 1991. You said you went over there to
2 make an apology to Larry Hensley; is that correct?

3 A. That's one of the reasons, yes.

4 Q. Did you, in fact, make that apology?

5 A. Yes.

6 Q. Was he, in fact, upset about not being
7 included in the investigation?

8 A. No, he just said that if we had a
9 disposition on the cocaine, that he would like to get
10 some for the county to use, I don't know, for the
11 dogs or what.

12 Q. What gave you the impression that he was
13 upset, to start out with, that would cause you to go
14 over there to make an apology?

15 A. Because I told him I was going to call him.

16 Q. Did he routinely assist you in
17 investigations that were in the Warton area?

18 A. I would call him and let him know that we
19 were going over. That's his jurisdiction.

20 Q. Did he assist on the investigations?

21 A. On the first one, no, because we used -- I
22 hadn't met him yet. We used some other person.

23 Q. The ones that he was involved with, was he
24 always -- did you provide him a copy of the reports
25 or anything?

1 A. No, he never asked for them.

2 Q. Did you ever advise him what happened to
3 the cases?

4 A. Yes.

5 Q. So if he indicated to us that there was
6 never any problem and that he never knew whatever
7 happened to the cocaine after it left Warton, he's
8 lying; is that right?

9 A. I didn't hear your question.

10 Q. I said, if he indicated to us, when we
11 interviewed him, that there had never been a problem
12 between you all and that he never knew what happened
13 to the cocaine after it left the airport or went
14 through the jurisdiction, he never knew any
15 disposition on the cases, then he would be lying to
16 us. Is that what you're telling me?

17 A. What problem are you talking about? I
18 don't understand what you're getting at. I don't
19 understand the question.

20 Q. All right. If he indicated that you had
21 never apologized to him, that incident never
22 happened, and that he was never made aware of any
23 disposition on any of the cases, and you've just told
24 me contrary to that on both issues, then he's lying.
25 Is that what you're telling me?

1 A. I went and apologized to him. Now, if he
2 told you that I didn't apologize, yes, he would be
3 lying. I told him, "Hey, I wasn't here. I couldn't
4 be there so you weren't used. Next time we'll use
5 you."

6 Q. And if he says that he never ever knew what
7 happened to any of the loads, then he would also be
8 lying about that?

9 A. I don't see how he would know. I mean, I
10 told him we were going in.

11 Q. Well, you told me you advised him of what
12 happened to the disposition on the cases.

13 A. No, you asked me if he knew what was --
14 when we were going over or whatever. I would call
15 him and let him know.

16 Q. Did he ever participate? Did he ever go on
17 surveillance with you? Was he ever there when the
18 stuff was seized?

19 A. One time that we went in, he couldn't be
20 there for some reason. It was a marijuana load. And
21 we took it down in Houston, and I don't know what the
22 reason, why he couldn't be there.

23 Q. And on those occasions when you called him
24 and told him you were coming over there to work on a
25 deal, after it was over, at any time, did you ever

1 let him know what happened on that investigation,
2 what was seized, what -- who was arrested?

3 A. I don't recall if we did that all the time.

4 Q. Did you ever do it?

5 A. I don't recall.

6 Q. When you went to Big Spring to interview
7 Chacone, how did you get out there?

8 A. DPS airplane.

9 Q. How did you get from the airport to the
10 FCI?

11 A. To the jail?

12 Q. Yes.

13 A. I had one of the investigators from Midland
14 or somewhere, James, come pick me up.

15 Q. Did you have any discussion with him about
16 your purpose for being out there?

17 A. I don't remember. He knew I was going to
18 go talk to a prisoner. And I told him where it was.
19 That's why he was able to find it.

20 Q. Did you invite him to sit in on the
21 interview?

22 A. Well, he was there with us, and then he
23 volunteered to get up. And the case agent -- his
24 case agent, I think -- caseworker -- Oto's caseworker
25 was there. So when he left, it's okay because he was

1 in there.

2 Q. Why did James agree to just get up and
3 leave?

4 A. He just volunteered to go.

5 Q. You never had any discussion with him
6 concerning Oto's ability to speak English?

7 A. I don't know. I don't remember.

8 MR. BRUBAKER: I've been doing all the
9 questioning, Adan. I'm going to give you an
10 opportunity to make any statements you think that we
11 haven't covered and might be relevant to getting this
12 mess straightened out. Or if you have any ideas of
13 why Oto and Bob would be saying these things.

14 THE WITNESS: I have no idea.

15 MR. BRUBAKER: Well, in closing,
16 there's something that I need you to understand and
17 consider it to be a direct order. You're not to
18 discuss, other than with your attorney here, anything
19 that went on in here with anybody else that works
20 with this Department or anywhere else, especially
21 those that might be a witness.

22 Do you understand that?

23 THE WITNESS: I won't talk to
24 anybody.

25 MR. BRUBAKER: And if I understood you

1 right earlier, you would be agreeable to signing a
2 release for us to get the records for the reference
3 of the purchase of that vehicle; is that correct?
4 THE WITNESS: Yes.
5 MR. BRUBAKER: I think that's all I've
6 got, Adan. I appreciate you coming in. I appreciate
7 your time.
8 THE WITNESS: Okay.
9 MR. BRUBAKER: I appreciate your time.
10 MR. PARKER: All right.
11
12 (Interview adjourned.)
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25

W I T N E S S ' S I G N A T U R E

STATE OF TEXAS

*

COUNTY OF TRAVIS

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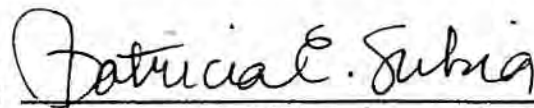
*

I HEREBY CERTIFY that I have read the foregoing interview and that this interview, together with my corrections, is a true record of my testimony given at this interview.


JAIME ADAN BALLESTEROS

(1) SUBSCRIBED AND SWORN TO BEFORE ME
this the 1st day of November, 1996.




Notary public in and for
the State of Texas.

Commission Expires: 06-02-00

1 REPORTER'S CERTIFICATE

2
3 STATE OF TEXAS *
4 COUNTY OF TRAVIS *
5

6 I, ANGIE HERTEL, Certified Court Reporter
7 for the State of Texas, do hereby certify that the
8 facts stated by me in the proceedings hereof are
9 true; that the said witness did make the above and
10 foregoing answers in response to questions propounded
11 as shown; that I did, in shorthand, report said
12 proceedings, and that the above and foregoing
13 typewritten pages contains a full, true and correct
14 computer-aided transcription of my shorthand notes
15 taken on said occasion.

16 WITNESS MY HAND this the 4th day
17 of October, 1996.
18
19
20

21 Angie Hertel 12w.
22 ANGIE HERTEL
23 Certified Shorthand Reporter
24 For the State of Texas
25 CSR No. 5633

Expiration Date: 12-31-97

C E R T I F I C A T E O F F I L I N G

ORAL INTERVIEW OF JAIME ADAN BALLESTEROS

I, Angie Hertel, Certified Shorthand Reporter
for the State of Texas, hereby certify that:

This interview transcript is a true record of
the testimony given by the witness named herein,
after said witness was duly sworn by Mr. Brubaker;

\$ 510⁷⁵ is the charge for the
preparation of the completed interview transcript
and any copies of exhibits attached hereto, charged
to DPS.

The original transcript was mailed or delivered
to James Brubaker on 10-4-96.

After delivery, the reporter has no further
responsibility for said original transcript or
notification of changes made by the witness.

Pursuant to information made a part of the
record at the time said testimony was taken, the
following includes all parties of record:

1 in furtherance of the investigation?

2 A. No.

3 Q. During this period of time, were we the
4 only agency paying him? You said the FBI had some
5 kind of problem; is that right?

6 A. Yeah, we paid him. Yeah, the FBI didn't
7 pay him.

8 Q. What about Customs?

9 A. I think Customs paid him also.

10 Q. Do you know if DEA paid him during this
11 period of time?

12 A. No. During that period of time, DEA was
13 not involved.

14 Q. Was Chacono also allowed to keep the
15 proceeds that he was receiving from the traffickers?

16 A. Yes.

17 Q. Do you know who made that decision?

18 A. No.

19 Q. During your association with McLean and
20 Chacono, did you ever fly in any of their aircraft?

21 A. In the United States, yes.

22 Q. Did you ever fly into Mexico with them?

23 A. Well, Bob said, "We're going to go for a
24 ride," and he'd cross over Mexico, but he would come
25 back in. But Customs was with me on that

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2 MR. JAMES BRUBAKER
3 Narcotics Services
4 P.O. Box 4087
5 Austin, Texas 78773-0001
6
7 For the Respondent:
8 PARKER & PARKS, L.L.P.
9 BY: MR. CARL PARKER
10 1 Plaza Square
11 Port Arthur, Texas 77642-5513
12
13 A copy of this certificate was served on
14 all parties shown herein.
15
16 WITNESS MY HAND this the 4th day of
17 October, 1996.
18
19 Angie Hertel /A.W.
20 ANGIE HERTEL
21 Certified Shorthand Reporter
22 for the State of Texas
23 CSR No. 5633
24
25 Expiration Date: 12/31/97

1 case, on that particular deal.

2 Q. Do you remember ever being counseled about
3 flying with them, about the concerns of being in an
4 informant's aircraft and any problems that could
5 result from that?

6 A. No, I was never counseled. In fact, I was
7 afraid when I was first told to go up with them.
8 Because after we got McLean, he wanted to show where
9 the strips were. Joe Garza couldn't fly, and De Joel
10 couldn't fly, so they told me to get on the
11 airplane.

12 MR. EEDS: Who told you that?

13 THE WITNESS: De Joel and Joe Garza.
14 And we were going to -- close to Hevernaville. And,
15 you know, it just freaked me out.

16 MR. EEDS: Joe told you to fly, one of
17 our investigators, not a supervisor?

18 THE WITNESS: Right.

19 MR. EEDS: Did the supervisor at the
20 time know you were flying?

21 THE WITNESS: No. It was just -- we
22 were at the airport and he said, "Just go with him to
23 show" -- "they're going to show you where they're
24 bringing in the stuff there in Hevernaville." So I
25 didn't know so -- you know, I was afraid that -- I

1 THE WITNESS: '80 -- I mean, '90 --
2 '89, '90, '91, somewhere around there. I don't
3 know.

4 Q. (By Mr. Brubaker) Did you make a call from
5 his cell phone to your house, is that what you're
6 saying, and then he just recalled the number? Are
7 you saying it acted similar to Caller ID?

8 A. Yeah. See, I didn't even know about Caller
9 ID.

10 MR. EEDS: He said it was like Caller
11 ID?

12 THE WITNESS: He didn't say that. He
13 said that he had my number.

14 Q. (By Mr. Brubaker) That was the concept he
15 was trying to make?

16 A. Right. He scammed me.

17 Q. Did McLean or Chacono ever come to your
18 house?

19 A. Chacono came by one time, not into the
20 house. He just passed by.

21 Q. How did he come to know where you lived?

22 A. I don't recall. I don't know if driving by
23 one time or what or he saw my truck. I don't know
24 what -- how he first found out where I lived, but he
25 told me he knew where I lived. It's not very hard

1 when you live in

2 Q. Did you ever have any occasions to meet
3 with McLean or Chacona, outside of work, on a social
4 setting?

5 A. No.

6 Q. Can you tell me about when and why you,
7 along with McLean and Chacona, quit working with the
8 FBI?

9 A. It was a load that was taken into Warton --
10 two cocaine loads -- the same day, one after
11 another. And for some reason, I don't know how it
12 happened, but the FBI didn't make country clearance
13 or something. Or I don't know what the details were,
14 but FBI said that they didn't want to work anymore.
15 So I just continued working with Customs.

16 MR. EEDS: Up until that time, you had
17 a pretty good working relationship with the FBI
18 working with them?

19 THE WITNESS: Yes. And we still
20 worked with the FBI after that. But as far as air
21 smuggling, they said, you know, they didn't want to
22 do country clearance or something. Or that
23 supervisor, for some reason, just said that he wasn't
24 going to do it anymore. And I don't know what the
25 argument was.

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I N D E X

ADAN BALLESTEROS

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1 I think when the loads came down, it had
2 been where -- whoever calls in got this number, they
3 took credit for the load. And right off the bat,
4 Customs called and got the number, and they took
5 credit for that load. And the FBI tried to call, but
6 they had already given the number. Something like
7 that, and it was just between Customs and FBI.

8 Q. (By Mr. Brubaker) While Chacon and McLean
9 were working with you and the FBI and Customs, did
10 they routinely fly back and forth to Mexico?

11 A. That was part of Jacone's deal. They had
12 to go by -- they went back and forth.

13 Q. And they were bringing loads from Mexico
14 into the country?

15 A. When they let us know, yes. Not without us
16 knowing. If they told us. But, you know, we didn't
17 know every time they did what they did. They flew a
18 lot, and we didn't know every time they flew.

19 Q. Can you tell me about when and why you
20 began to work with T.K. and the Drug Enforcement
21 Administration?

22 A. After a talk with the FBI, I think the main
23 thing was that -- of course, you know, the Customs
24 guy that I was working with left. So now I went
25 ahead and called AUSA's office and told them, "Well,

1 FBI is not going to work for Customs so, you know,
2 I'm not going to be working these types of cases
3 because I need to have clearance." And then he went
4 ahead and got me with T.K. He says, "Well, you know,
5 here's T.K. Solis, and you can work with him."

6 MR. EEDS: Who did this?

7 THE WITNESS: John Cruz.

8 MR. EEDS: The AUSA?

9 THE WITNESS: Yeah. He told me about
10 T.K., and he got us to meet. And I met with T.K. and
11 told him about Oto. And he said, "Yeah, we'll work."

12 Q. (By Mr. Brubaker) Do you know about when
13 you started working with T.K.?

14 A. It was after I talked to the FBI that they
15 didn't want to do -- that was after that Warton deal.

16 Q. Do you know a year or month?

17 A. '90, I think. '90 or '91.

18 Q. After you had the initial discussion with
19 T.K. about working McLean and Chacon, were there any
20 formal meetings held to discuss the types of
21 investigations that you all wanted to work or any
22 direction or how McLean and Chacon would be
23 utilized?

24 A. I met with T.K. and told him -- I didn't
25 know T.K. I just knew he was a DEA. I told him that

1 Chacone -- who is not a pilot but had airplanes and
2 he flew fiuca -- that he and Bob were working
3 together, and that this is what we had done. And,
4 you know, if he could handle it or work it and get
5 the country clearances and he said yes.

6 Q. So --

7 A. And then I introduced him to Chacone.

8 Q. There were no supervisors at this initial
9 meeting?

10 A. No.

11 MR. EEDS: Did your supervisors know
12 that the FBI wasn't going to work with him anymore?

13 THE WITNESS: Yes, I told them.

14 MR. EEDS: And who was your supervisor
15 you told?

16 THE WITNESS: Back then, I don't
17 remember. I think it might have been Terry.

18 MR. EEDS: It was the Lieutenant?

19 THE WITNESS: Yes. See they were
20 there, I mean, during the whole deal. I mean, they
21 were just -- when -- we took over that Warton
22 office -- the Highway Patrol Office to the point
23 where the Highway Patrol got mad. We had 100 FBI, 50
24 Customs. We just had everybody there. We bought our
25 own tower and had Customs airplane, DPS airplane, and

1 it was just a big old deal. FBI, for the most part,
2 wanted to work it alone with us and not involve
3 Customs. I just called everybody.

4 Q. (By Mr. Brubaker) Do you remember what the
5 first case was you worked with T.K. and Chacone and
6 McLean?

7 A. No, I don't remember.

8 Q. On any of the investigations that you
9 worked with T.K. and Chacone and McLean, were there
10 regular meetings held with DEA supervisors or our
11 supervisors to discuss the investigations and where
12 they needed to be going.

13 A. I would tell T.K. In fact, T.K. even
14 talked to the CI. And I told my supervisors what's
15 coming up, but, you know, they would never happen. I
16 would say, "We're just going to go. It's gonna go,"
17 and it doesn't go. He says, "Well, I'm going to do
18 this," and it doesn't happen. I say, "We're going to
19 go look at a strip," and they go and then nothing
20 ever happens.

21 Q. So there were no formal meetings between --

22 A. Not between DEA supervisors and DPS
23 supervisors, no.

24 Q. Adan, if I could get you to look at this
25 CLE-1. In this CLE-1, you talk about the Lamas

1 Organization.

2 A. Let me read this. Hold on.

3 (Long pause.)

4 A. This was, I think, the cocaine that Beto
5 Pena took down.

6 Q. (By Mr. Brubaker) Okay. Do you remember
7 writing this CLE-1?

8 A. Yes.

9 Q. File No. N7A-89035?

10 A. Yeah, I need to -- I must have wrote it,
11 here it is. But this was information given a long
12 time later. And after it happened -- I don't really
13 know exactly when it happened. But after it
14 happened, the CI was saying that he knew about it and
15 that these people had something to do with it.

16 Q. Okay. And at the time you wrote this
17 report, the information that you had on the Lamas
18 brothers is the full extent of the information you
19 had on them, as far as identifying information, is
20 contained under the physical description section on
21 Detail 2 and 3; is that correct?

22 A. Yeah, that's the only thing that I could
23 find on them.

24 Q. Okay. I would like you to look over this
25 CLE-1, from File No. N7A-89080, dated 11-27 of '89.

1 (Long pause.)

2 A. Right there it says sue (sic). I think it

3 was a C. In the report --

4 Q. (By Mr. Brubaker) So you did write this

5 CLE-1; is that correct?

6 A. Yes.

7 Q. And the information under the physical

8 description section on Lamas basically indicates that

9 you had him fully identified; is that correct,

10 provided --

11 A. According to the information that I could

12 find.

13 Q. You indicate that Lamas wanted to begin

14 flying cocaine into the United States?

15 A. Yeah, Lamas or Nieto. And they were

16 associated to each other.

17 Q. Okay. Was this information provided by

18 Chacon?

19 A. Yes.

20 Q. This CLE-1 also indicates that Lamas wanted

21 to start with 500 pounds of marijuana to test the

22 system and make sure everything worked?

23 A. Well, not the system. He wanted to test

24 the CI. Because if he didn't trust the CI, he wasn't

25 going to give him any more.

1 Q. Before he fronted any cocaine; is that
2 correct?

3 A. Well, that was cocaine that he wanted to
4 do.

5 Q. Right. But I'm saying, before he was going
6 to allow the informant to bring any cocaine, he
7 wanted to try marijuana. That's what you indicated?

8 A. Yes, that's what he said.

9 Q. Okay.

10 A. That's what the CI said.

11 Q. Could I get you to look over this CLE-1,
12 from File No. N7A-89080, dated 1-15 of '90?

13 (Long pause.)

14 Q. (By Mr. Brubaker) Did you prepare this
15 CLE-1?

16 A. Yes.

17 Q. In Detail No. 2, you indicate that -- I
18 assume that Chacon was introduced to Nieto; is that
19 correct? That's the source you keep referring to in
20 this report?

21 A. As a source, which was Chacon.

22 Q. And he basically reiterates the same thing
23 that Lamas had told him. They wanted to try out 500
24 pounds of marijuana because they didn't trust him?

25 A. Well, I guess. Yeah, that's what it says

1 here, and that's what they talked about.

2 Q. Okay. In Detail No. 7, you indicate that,
3 apparently, Chacone had convinced them that to all of
4 his knowledge that he was -- he could be trusted and
5 they decided to go ahead and not fly the test load of
6 marijuana and go ahead and do the cocaine shipment
7 first; is that correct?

8 A. Yeah, because we didn't want -- because he
9 had already talked about cocaine. We didn't want to
10 mess with marijuana. So we told him, "It's going to
11 be the same price. Just jack up the price. That
12 way, if you're going to do something, you might as
13 well do something worth your while."

14 Q. During the time that Chacone was obtaining
15 this information, was there any active surveillance
16 on him or did he just come in and debrief after being
17 with these violators?

18 A. I don't remember. I want to say we did,
19 but I don't remember.

20 Q. Okay. I notice there's also several phone
21 numbers listed throughout the report, which you have
22 indexed in the book, indicating --

23 A. Numbers that he was--

24 Q. -- pagers and a non-listed number to a
25 business; is that correct?

1 A. Yes. That's through the crisscross. We
2 were able to determine what those numbers were.

3 Q. Okay. In the physical description section,
4 you indicate that the description of Juan Lamas --
5 you refer back to another report, which was a common
6 practice at that time, right?

7 A. Yes.

8 Q. Did you make any effort through the
9 businesses that had these phone numbers to get any
10 more identifying information on anybody in this --

11 A. I don't remember. We were working with the
12 FBI on that, so they had the reports. I don't know
13 what they tracked down or what they were doing.

14 Q. Let me get you to look at this CLE-1, from
15 File No. N7A-89080, dated 12-6-89.

16 (Long pause.)

17 Q. (By Mr. Brubaker) Did you write this
18 CLE-1?

19 A. Yes.

20 Q. This is basically the -- or this is the
21 report that you made reference to for the physical
22 description section in the last report that you
23 looked at for Nieto and Lamas that you refer to; is
24 it not?

25 A. I think it is. You just go back and forth

1 off the same one if you need to get other
2 information.

3 Q. Did -- was McLean and Chacono involved in
4 this?

5 A. Chacono was. And there was another pilot
6 Matamoros -- Rafael Matamoros was the pilot.

7 Q. If I could call your attention on the first
8 page under the "defendants" column. You have Juan
9 Lamas listed there with an address on 23rd Street in
10 Brownsville?

11 A. Huh-uh.

12 Q. And in the physical description section,
13 Detail No. 3, you have a description of Juan Lamas
14 again; is that correct?

15 A. Where is this? What page?

16 Q. Page No. 9, the physical description
17 section.

18 A. Yes, it shows the same one.

19 Q. Could I get you to refer back to the CLE-1
20 dated 11-27-89, in File No. N7A-89080, Page 2, the
21 physical description section?

22 A. It shows a Brownsville address.

23 Q. Yeah, that one.

24 A. Yes.

25 Q. The physical description that you show of

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1 Juan Lamas there varies quite a bit from the one that
2 you show here, different address, different size.
3 Were they -- different color hair. Were these two
4 different individuals?

5 A. Yeah, there was about two, three or four
6 different Juan Lamas. I don't know, and I can't
7 remember the sources if they used each other's name
8 or -- there was two, three or four different ones.
9 So I never really knew which Juan Lamas it was. I
10 only went by what he could tell me.

11 Q. You were never able to -- you have some
12 addresses listed here. You were never able to go to
13 these apartment complexes and obtain any
14 documentation from lease information or anything that
15 would have given you any clue who the positive ID was
16 on John Lamas; is that correct?

17 A. We -- of course, we had surveillance on the
18 apartment. But, you know, we could never tell who he
19 was. And we couldn't get close enough -- I don't
20 know how the apartment was where we can take out
21 vehicles, but we followed vehicles and we took those
22 tags down. And those were the vehicle descriptions
23 back here (indicating).

24 Q. Did you make any conscious effort to check
25 with the leasing agents or Highway Department records

1 or anything on those vehicles to try to find any more
2 definite information out on who Juan Lamas may have
3 been?

4 A. Not that I can recall. I think this is
5 what I did here.

6 Q. What about the description you have of
7 Nieto. Do you feel that it was accurate and correct?

8 A. As far as what the CI told me.

9 Q. How were you able -- or where did you come
10 up with this IDing information?

11 A. From the CI. He pointed out as to where
12 Nieto is hanging out or lives, whatever. That's why
13 we put the 334 Morning Side in Brownsville.

14 Q. Did you ever check any utility records for
15 that address?

16 A. No.

17 Q. Can I get you to look at this affidavit for
18 search warrant, the probable cause section.

19 (Long pause.)

20 Q. (By Mr. Brubaker) Do you recall this
21 affidavit?

22 A. Yes.

23 Q. This was a continued effort on your part to
24 dismantle Lamas and his group, was it not?

25 A. Yes.

1 Q. Was all the information that you put in the
2 affidavit obtained from your several-day
3 surveillance?

4 A. Yes.

5 Q. Was any information provided by Chacona?

6 A. No, he just, like this (indicating),
7 pointed, "There he is and he's doing it." And we
8 did -- and he pointed out the house where the
9 marijuana was, if I can recall. And that's where we
10 set up, across from the house.

11 Q. Is there some particular reason you didn't
12 mention receiving information from an informant in
13 this affidavit?

14 A. I don't know if it was because of the
15 days -- I don't recall.

16 THE COURT REPORTER: Because of what?

17 THE WITNESS: The days -- the amount
18 of surveillance.

19 Q. (By Mr. Brubaker) Are you telling me it
20 was an oversight on your part, leaving that
21 information out?

22 A. I don't know what it is. I guess we
23 started surveillance on the apartments. That's where
24 it started. And we just went off on that and that
25 and that, and we finally put him down in that other

1 house. The information we had was on the Hacienda
2 Apartment. And we corroborated everything else, and
3 we developed the information.

4 Q. So Chacone didn't really have an active
5 part?

6 A. No. A lot of stuff, he minimized himself.
7 So that's why we were there for days.

8 MR. EEDS: So he didn't give you
9 information on this search warrant? He didn't tell
10 you which house the marijuana was in?

11 THE WITNESS: The thing is that -- he
12 told us about Lamas, and we followed Lamas, and we
13 followed Lamas. And he kept on telling us about
14 Lamas so we got interested in Lamas. We followed
15 Lamas and talked about them doing something or,
16 "Lamas is associated with someone," or whatever. So
17 we started -- we kept on Lamas and we developed the
18 information on Lamas. But I can't recall if he told
19 us anything else or if he was ever in any house or --
20 see, when they went into that house -- they were
21 going to that house so he turned off the lights. So
22 we figured that's where they were doing their deal.

23 Q. (By Mr. Brubaker) You indicate in the
24 affidavit that a traffic stop was to be conducted. I
25 assume that it wasn't since you don't mention that it

1 was. Can you tell me why you did not make the
2 traffic stop?

3 A. It wasn't me. We had other units out
4 there. They wanted to do a traffic stop. I don't
5 know why it wasn't done. I know we wanted to
6 identify them because we really never had an
7 identification on them. And there it was right there
8 (indicating). It says, "Traffic stop was to be
9 conducted to possibly identify Lamas."

10 Q. You had the opportunity to positively
11 identify him, but you didn't avail yourself of that
12 opportunity?

13 A. We can't. Because if we did, then he would
14 know we were looking at him.

15 Q. I don't recall any mention in this report,
16 or any of the previous reports dealing with Lamas,
17 where you indicated that there might be more than one
18 Juan Lamas or someone using Juan Lamas' name.

19 A. The CI told me that. I didn't put it in
20 the report, but apparently it showed up because
21 there's two different Lamas. And I think I might
22 have questioned the CI. I said, "Well, there's
23 different Lamas." And then we ran a check on him,
24 but there was five different Lamas. And I forgot how
25 the FBI ran the check. And we went through court

1 records where people had been arrested in the area,
2 and there was about three, four, five different Juan
3 Lamas.

4 Q. Well, you're aware that the people that you
5 index on these reports ends up in the data base up
6 here in the computer; is that correct?

7 A. I know that now. I didn't know then. I
8 know we had it over there.

9 Q. So this Juan Lamas you have positively IDed
10 by Texas DL and social security could be totally not
11 associated with this; is that correct?

12 A. I don't know.

13 Q. And, in fact, could be innocent; is that
14 correct?

15 A. I don't know.

16 MR. EEDS: Did you make your
17 supervisor aware that the possibility existed that
18 you all were looking at several different Juan
19 Lamas?

20 THE WITNESS: I'm sure he was aware
21 because I have my reports.

22 MR. EEDS: Well, from reading --

23 THE WITNESS: How many Juans are there
24 in the valley?

25 MR. EEDS: But from reading your

1 reports, you can't tell we're talking about a
2 different Juan Lamas.

3 THE WITNESS: It is very difficult to
4 identify people even when you try.

5 Q. (By Mr. Brubaker) Did you read the whole
6 probable cause section there, Adan?

7 (Brief pause.)

8 A. Yes.

9 Q. (By Mr. Brubaker) If someone working under
10 your supervision at this time were to present this
11 affidavit to you, would you approve it for content?
12 What I'm asking is: Do you think that probable cause
13 is articulated in this affidavit?

14 A. I would say yes.

15 Q. Can you show me where in the affidavit that
16 you articulate the information that the marijuana --
17 what probable cause there is that it is at that
18 location?

19 A. Right here. "On several occasions, while
20 driving the white mercury bearing Texas North
21 David, Lamas was observed at a location described in
22 the first paragraph." Going back to the first
23 paragraph, which actually is at the La Hacienda
24 Apartments. "And the locations took place at night.
25 And while in" -- "and while he was there, most of the

1 activities were conducted in darkness in order to
2 avoid being seen or detected. Several vehicles were
3 observed leaving the location without the headlights
4 on and the same were turned on well after leaving the
5 area.

6 "On 2-15-90, at approximately 9:45 p.m.,
7 myself, along with other officers, detected a strong
8 odor of what seemed to be marijuana was being blown
9 in the direction of the officers by the winds
10 preceding from the south." Right across the location
11 where we were at -- I mean, you can just smell --
12 that was, what, 4,035 pounds of marijuana coming from
13 that shack, which was -- you know, was not even
14 brick, if I can recall.

15 Q. The marijuana could have been stacked out
16 in the middle of a field somewhere, could it not?
17 You show no --

18 A. It could have.

19 Q. You show no indication that -- or any
20 reason why someone should believe that the marijuana
21 is inside any of the structures that are listed in
22 this affidavit.

23 A. Well, I believed that it was inside the
24 house.

25 Q. Well, I understand you believed that. But

1 what I'm asking you is why -- did you not have the
2 information? You don't state --

3 A. Well, the thing is, when you're doing
4 surveillance and you're looking at this covert action
5 that they're doing, they're going back and forth, you
6 assume by what they're doing that it's in that
7 location.

8 Q. Well, it also describes -- it could
9 describe the actions of someone who was meeting with
10 a paramour. I mean, there's no --

11 A. A paramour?

12 Q. Illicit lover, chip, whatever you want to
13 call them.

14 A. Oh, not like this.

15 Q. There's no indication anywhere in here,
16 that I can see, where you've mentioned that you have
17 knowledge and why you believe that the marijuana is
18 located at this address.

19 A. Well, if you were on surveillance for two
20 or three days that we were out there and looking at
21 the vehicles and the suspicious nature of them going
22 down in that location and then the strong smell of
23 marijuana coming from that location, you infer that
24 there's narcotics in there, marijuana, and there was.

25 Q. Did Chacon know that marijuana was at this

1 location?

2 A. I don't think so. I don't know.

3 Q. If I can get you to also look at this
4 affidavit that's part of that same case. And I
5 assume it was run subsequently to the one that you
6 just looked at.

7 A. Back here it says, "Seized during search
8 warrant. See cover attached."

9 Q. You got the 4,000 pounds first and then the
10 2,000; is that right?

11 (Long pause.)

12 Q. (By Mr. Brubaker) Do you remember this
13 affidavit?

14 A. Yes.

15 Q. So basically you all went to that first
16 house and got 4,000 plus pounds, then you did a
17 consent and got a couple thousand more, then you
18 wrote this affidavit?

19 A. Say that again.

20 Q. You got like 4,000 pounds off of this first
21 affidavit?

22 A. Right.

23 Q. And then you got 2,000 on the consent. I
24 don't know which one of those came first, either the
25 consent or the first affidavit.

1 dealing with unprofessional conduct, reporting
2 violations and operational procedures, as well as
3 state law regarding governmental records, prosecution
4 of individual and abuse of official capacity.

5 Lieutenant Ballesteros, I'm going to swear
6 you in. Would you please stand and raise your right
7 hand?

8 (Witness sworn in by Mr. Brubaker.)

9 MR. BRUBAKER: Thank you. You can be
10 seated. Before we go any further, I want to make
11 sure you understand some of the following
12 information. This, again, is a compelled interview
13 and is strictly an administrative procedure. It is
14 mandatory and it is a condition of your continued
15 employment.

16 It's generally been held by the courts that
17 information obtained from you under a compelled
18 statement cannot be used against you in a criminal
19 hearing. However, I want to make sure you also know
20 that knowingly and willingly providing false
21 information to us could result in an additional
22 complaint being filed against you. It could also
23 result in additional disciplinary action against you,
24 up to and including dismissal. Refusal to answer
25 questions could also result in an additional

1 A. Okay.

2 Q. But you had 6,000 plus pounds in custody,
3 and then you prepared this affidavit; is that
4 correct?

5 A. Yeah. Do you have the report to this?

6 Q. Yes, sir. This is CLE-1 dated 2-19 of '90,
7 File No. N7A-90009.

8 (Long pause.)

9 A. Do you have that other report dated 2-19 of
10 '90, the CLE-1?

11 Q. Which detail are you referring to, Adan?

12 A. To the detail addressed in the synopses --
13 "refer to CLE dated 2-19-90" by myself.

14 Q. This one here is dated 2-19 of '90 that
15 you're holding.

16 A. Well, this is another one I'm referring
17 to. The report to the seizure of the marijuana, the
18 4,000 pounds. Do you have that report? Okay.
19 This is 2-19, but it refers to 2-19.

20 Q. That's the only report in there dated
21 2-19.

22 A. All right.

23 Q. There's one dated 2-16 that Doug Brooks
24 wrote up.

25 A. Okay.

1 (Long pause.)

2 Q. (By Mr. Brubaker) You remember this second
3 affidavit; is that right?

4 A. Yes.

5 Q. Did Chacone provide any information in
6 this? Or was this, again, a culmination of your
7 lengthy surveillance?

8 A. Right.

9 Q. And, again, I would point out to you
10 there's no mention anywhere in this affidavit of how
11 or why you believe that there's any marijuana in this
12 residence.

13 A. In which residence?

14 Q. The one that --

15 A. The 4,000 pound one?

16 Q. No, the one --

17 A. The second --

18 Q. No, the one that the search warrant is for
19 963-B Live Oak in Harlingen. The one that the
20 affidavit and search warrant are for. You indicate
21 that you seized that other marijuana and basically
22 the same information. "The guy drove fast. He made
23 a lot of meetings." Still, no indication that
24 there's any marijuana or that you have any knowledge
25 there's any marijuana in this location; is that

1 correct?

2 A. Which one came first? They're both on the
3 same days.

4 Q. Well, I would have to assume that the one
5 with the 4,000 --

6 A. On the one you're inquiring about, on the
7 affidavit, it says that we took 6,639 pounds of
8 marijuana.

9 Q. That's what I'm saying. I would think the
10 first one I handed you came first, and then a
11 consent, which would have given you the 6,000
12 pounds. And then you ran the second search warrant
13 and got another couple thousand for somewhere upward
14 of 86 to 8,700 pounds of weed.

15 A. Okay. This refers back to this one, and
16 this one talks about the surveillance that we did on
17 this one and on this one (indicating). So that's how
18 we got the 4,000 and the 2,609, located on Nixon
19 Road, to give us the affidavit to go -- to give us
20 probable cause to go on the one on Live Oak.

21 Q. But there's still nowhere in either
22 affidavit that mentions how or why you believe there
23 was marijuana, specifically in those residences; is
24 that correct?

25 A. Well, it talks about the surveillance of

1 the vehicles, where we started back on the 10th, in
2 reference to the 4,000 that we took off of that.

3 Q. But you still haven't answered my
4 question. Is there any statement in either one of
5 these affidavits that indicate how or why,
6 specifically, that you know that marijuana is in
7 either of these places?

8 A. Yes, through the surveillance and following
9 the vehicles and how they're moving around and that
10 we took down the 2,609 pounds and the 4,000, whatever
11 pounds that was, off of the other one. That is in
12 this affidavit.

13 Q. Sir, I understand that you took that down,
14 but it still doesn't tell me how you know there's
15 marijuana in that residence. It tells me you took
16 down this marijuana over here, but it doesn't tell me
17 how you know there's marijuana in this Live Oak
18 address.

19 MR. EEDS: Did a supervisor look at
20 these affidavits before you presented them?

21 THE WITNESS: No.

22 MR. EEDS: Did T.K.?

23 THE WITNESS: Usually you don't have a
24 supervisor with you when you write the affidavits.
25 You're out there at night. You find a little room

1 somewhere where you can find a typewriter. You type
2 it up, especially at 3:00 in the morning or whatever
3 time this was. I don't know which particular time
4 this one was.

5 MR. EEDS: Did anybody, other than
6 you, look at these affidavits?

7 THE WITNESS: I think Escribano was
8 with me.

9 MR. EEDS: And who is he?

10 THE WITNESS: The FBI investigator.
11 He's in Puerto Rico now.

12 Q. (By Mr. Brubaker) Have you had a chance
13 to -- go ahead. I'm sorry.

14 A. Go ahead.

15 Q. Have you had a chance to read over the
16 CLE-1 dated 2-19 that I handed you just a moment ago?

17 A. Yes, for the most part.

18 Q. This is an accurate and detailed report
19 concerning your activities that lead up to the
20 execution of the two search warrants and the
21 consents; is that correct?

22 A. Well, according to what I got from these
23 other copies of surveillance, yes, to the best I can
24 recall.

25 Q. And there's no mention of any information

1 coming from an informant. It is strictly based on
2 your surveillance; is that correct?

3 A. That's correct. Because that's the reason
4 why it took so long.

5 Q. This CLE-12, from N7A-90009, dated 2-28 of
6 '90, could you look at this and explain to me why we
7 paid Chacon \$5,000 for the information, in that file
8 we've been talking about, if he had no activity and
9 provided no information?

10 A. He's the one that gave us Lamas.

11 Q. What do you mean he gave you Lamas?

12 A. He put us on to Lamas and we followed
13 Lamas.

14 Q. He put you on to who? I'm sorry.

15 A. To Juan Lamas. And that's why we would
16 follow him around. We would go ahead and get the
17 information on him, and that's where we started our
18 surveillance.

19 Q. Can you tell me the report that that CLE-12
20 references for the payment?

21 A. 2-19-90.

22 Q. Is that not the one you have in front of
23 you?

24 A. Yes.

25 Q. Basically, that CLE-12 is stating that he

1 was paid for the seizures made on this report?

2 A. Yes.

3 Q. But yet, he didn't provide any of the
4 information?

5 A. He gave us Juan Lamas.

6 MR. EEDS: How?

7 THE WITNESS: By telling us that he's
8 the one associated with, you know, marijuana and
9 things going on. That's why we sat on him. But he
10 didn't give us, per se, what's going on. That's why
11 we had to corroborate what's going on. And we had to
12 follow Lamas around to see the illegal activities and
13 the suspicious activities that he's doing. We built
14 the probable cause.

15 Q. (By Mr. Brubaker) We basically paid
16 Chacon \$5,000 because he said, "This guy over here's
17 a crook"?

18 MR. EEDS: "He's a crook."

19 THE WITNESS: Right.

20 MR. EEDS: Who approved that under the
21 knowledge of what you just told us?

22 THE WITNESS: I guess they had to get
23 a voucher from Charlie Williams.

24 MR. EEDS: Charlie Williams was not
25 your supervisor?

1 THE WITNESS: Terry was my supervisor,
2 but I'm reading what it says here. Terry did.

3 MR. EEDS: And Terry knew that the
4 information the man gave you was for \$5,000, "That
5 guy's in the dope business"?

6 THE WITNESS: Yes. We went on Lamas,
7 and he showed us here -- and the CI showed us
8 places. But the CI didn't give us information and
9 say, "There it is or there it is." How can I put
10 that in a search warrant because the CI didn't do
11 that. The CI told me, "Look at him because he's
12 doing things, and he's associating with these
13 people." And he's going to these locations that I
14 gave, where I was able to get license plates and
15 stuff.

16 And he was showing me and pointing me to
17 the houses. "This is where they're going. These are
18 the people. Look at these people. Look at Hadimule
19 (phonetic) and Zuniga and Lamas and follow these
20 people. They're going to do something" -- "they're
21 doing something," so we did. Had he not told us, we
22 wouldn't have sat up on them.

23 Q. (By Mr. Brubaker) Was Juan Lamas ever
24 arrested in this case?

25 A. No, I don't think so. No.

1 Q. Can you tell me what happened to Juan Lamas
2 during this surveillance?

3 A. I don't know. Surveillance picked him up,
4 followed him. And when we hit the house, he wasn't
5 at the house. And these are the people that were at
6 the houses.

7 Q. Everything in your affidavit and report
8 indicates that all of your efforts were directed at
9 making a case against Juan Lamas; is that correct?

10 A. Well, you pick out whoever is the most
11 culpable, I think. And I think Juan Lamas was the
12 one that was either directing or associating or
13 getting the people together so that's who we stuck
14 on. But as you can see, you know, here was Zuniga.
15 Zuniga was the one that had the marijuana that we hit
16 so it was changed to -- the title was changed to
17 Zuniga and not Juan Lamas. We didn't arrest Juan
18 Lamas. We couldn't find Juan Lamas.

19 Q. Well, you all had him under surveillance.
20 What happened to him?

21 A. I don't know.

22 MR. EEDS: Based on your affidavits
23 and your reports, the whole thing centers on Juan
24 Lamas?

25 THE WITNESS: Yeah.

1 MR. EEDS: Just a minute. That's who
2 your informant told you was doing all of these
3 things. And we go seize 8,000 pounds of marijuana,
4 and we never arrest Juan Lamas. He just disappears.

5 THE WITNESS: Well, maybe it wasn't
6 Juan Lamas. Maybe it was Zuniga. The thing is, we
7 followed the vehicles from where Juan Lamas was
8 staying. Apparently -- I don't know, because I
9 didn't follow all of the vehicles. But when we hit
10 the house, Juan Lamas wasn't there.

11 We didn't do a traffic stop, so we didn't
12 know if this was, indeed, Juan Lamas or not.

13 Q. (By Mr. Brubaker) On the first affidavit,
14 you indicate that Juan Lamas was in charge of the
15 premises. How did you determine he was in charge of
16 the premises?

17 A. The CI told us. Are you talking about the
18 La Hacienda Apartments or the --

19 Q. The location where this marijuana was
20 seized.

21 A. Yeah, the CI said that it belongs to Juan
22 Lamas.

23 Q. I guess --

24 A. I mean, I kept on calling the CI and would
25 ask him. I said, "Well, does he go here?" He said,

1 complaint being filed against you and subject you to
2 the same disciplinary action.

3 Also, in addition, any sustained acts of
4 untruthfulness could be the subject to disclosure
5 under Brady-Giglio Principle. Which means, should
6 you be a witness in a criminal prosecution, any acts
7 of untruthfulness with are committed now could be
8 discoverable under Brady. This could affect your
9 ability to perform your job should you be called to
10 testify in court.

11 Do you understand the ramifications of
12 answering truthfully?

13 MR. BALLESTEROS: Yes.

14 MR. BRUBAKER: Adan, I want to start
15 with some basic background information.
16
17
18
19
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25

1 "Yeah, sometimes he goes there." I said, "Who does
2 it belong to?" He said he believed it belonged to
3 Juan Lamas.

4 Q. It was out of the county, wasn't it?

5 A. It's right close to the airport.

6 Q. Minnesota Avenue and California Street?

7 A. Yes.

8 Q. Of the no-name county road?

9 A. Uh-huh.

10 Q. And your surveillance lasted, what, about
11 six days?

12 A. Yes.

13 Q. During this period of time, was there any
14 effort made to check county records as to who owned
15 the property or any utilities or any other method
16 commonly used to identify?

17 A. No, because I wasn't in the office, and I
18 was outside a lot and on surveillance and with the
19 other investigators. We tried to run on the plates,
20 but they come back not registered to anybody. We
21 didn't have a good location on the house to be able
22 to go run any les pendens (phonetic) or anything on
23 it.

24 And also, we didn't trust anyone in the
25 courthouse. When you go to the courthouse, you still

1 open a book to go in and inquire. And right off the
2 bat, they know you're working in somebody and the
3 word goes out. It's almost just like Star County.

4 Q. Did you make any effort to contact one of
5 our analysts to have them do a manual search on the
6 license plates?

7 A. No, I didn't -- well, I might have. I just
8 don't recall.

9 Q. On the second --

10 A. I think I would call and get several plates
11 and things here and there. I just never got anything
12 back. That's how I wasn't ever able to ever get
13 anything. In fact, I don't think he ever had a
14 driver's license. We went as far as to -- we went
15 to, I think it was, probation and other locations.
16 We went to the sheriff's office to see if he had been
17 busted before, to see if they had anything on him. I
18 think that's one of the places where we found there
19 was several different Juan Lamas.

20 Now, which one this is -- there's one who
21 had been busted with this DL. And then -- I don't
22 remember if we got a photo of that or not. In fact,
23 I think I even called DPS and they sent me the photo
24 of Juan Lamas -- on that Juan Lamas.

25 MR. EEDS: Was it the same Juan

1 Lamas?

2 THE WITNESS: The CI couldn't tell by
3 looking at the black-and-white photo.

4 MR. EEDS: But you had been following
5 him -- you've been following this Juan Lamas around.
6 You articulate in your probable cause and search
7 warrant what Juan Lamas is doing, how he's driving.
8 You all never saw him?

9 THE WITNESS: They saw him driving.

10 MR. EEDS: Was it the same one that
11 you got the picture of?

12 THE WITNESS: You couldn't tell from
13 that black-and-white photo.

14 Q. (By Mr. Brubaker) On the second affidavit,
15 you indicate that Zuniga and Rodriguez were in charge
16 of the suspected premises?

17 A. Yes, I think we got that from -- I don't
18 know if we ran license plates or what it was.

19 Q. Again, the main target of this was Juan
20 Lamas, but, yet, he does not appear as a defendant on
21 your defendant list on that report?

22 A. No.

23 Q. Why is that?

24 A. He didn't get arrested.

25 Q. Was he not culpable to be arrested at a

1 future time? Had he not violated any laws? Did you
2 not have any evidence on him?

3 A. We couldn't identify him. We didn't know
4 if he was, indeed, the one driving. It's not against
5 the law to drive the car. I mean, of course, he was
6 doing those illegal activities. We think that was
7 him, but we don't know for sure.

8 Q. So basically the only people that went to
9 jail were the mules that were sitting there guarding
10 this marijuana? Juan Lamas and his brothers, I think
11 Ricardo and Estevan, were not arrested in this case?

12 A. No.

13 Q. Adan, could I get you to look at this
14 CLE-1, dated 3-11-91, from N7A-91007?

15 (Long pause.)

16 A. Okay.

17 Q. (By Mr. Brubaker) Did you write this
18 CLE-1?

19 A. Yes.

20 Q. Is this going to be Juan and Ricardo Lamas'
21 brother?

22 A. I think it is.

23 Q. And the date of this arrest was March the
24 8th, 1991; is that correct?

25 A. Yeah, according to the report. Yes.

1 Q. And you initially charged him with
2 possession with intent to distribute and conspiracy
3 to possess with intent to distribute; is that
4 correct?

5 A. Yes.

6 Q. Would you look at this report, dated
7 8-26-91, for File N7A-91007?

8 A. Okay.

9 (Long pause.)

10 Q. (By Mr. Brubaker) Do you remember writing
11 this report?

12 A. Yes.

13 Q. Okay. On the first detail, you indicate
14 that as part of the ongoing joint investigations
15 between DPS and DEA into the investigation of Nieto
16 and his organization, you received information about
17 this marijuana shipment; is that correct?

18 A. Yes.

19 Q. And ultimately, you stopped Estevan Lamas
20 and arrested him?

21 A. Yes.

22 Q. In Detail No. 3, you indicate that Nieto
23 and Lamas will be indicted on Federal charges for
24 continuing criminal enterprise and racketeering; is
25 that correct?

1 A. Yes.

2 Q. On Detail 4, you indicate that Estevan
3 Lamas pled guilty to misprision of a felony and that
4 the original charges were dismissed; is that correct?

5 A. Yes.

6 Q. Did you have any discussions with any
7 US attorneys involved in the case and have the
8 charges reduced to misprision of a felony?

9 A. We talked with AUSA, and I think that's
10 what happened. It got reduced to misprision.

11 Q. What was the reason that the original
12 charge was reduced?

13 A. I don't know if it was because he would
14 plead out to that and we wouldn't have to go to
15 court, I guess. I don't know, because the guy was
16 going to plea out. But it was an ongoing
17 investigation. And if he pled out to that, we would
18 come back and get him on other charges once we got
19 his brother.

20 Q. Did Juan Lamas ever get indicted on Federal
21 charges?

22 A. No, not that I'm aware of. DEA was still
23 working it.

24 Q. Did Juan Lamas ever get indicted on State
25 charges?

1 A. No, not that I'm aware of.

2 Q. Okay. If I could call your attention back
3 to the CLE-1, dated 12-6 of '89, in File
4 No. N7A-89080.

5 A. Okay.

6 Q. This, again, is that cocaine seizure that
7 was made?

8 A. Huh-uh.

9 Q. You indicated that Chacone and Rafael --
10 A. Matamoros.

11 Q. -- Matamoros were the pilots. Those were
12 the two informants involved in the case?

13 A. Yes.

14 Q. And according to this report, none of these
15 people were ever arrested; is that correct?

16 A. Yes.

17 Q. Okay. This happened, according to this
18 report, the 2nd of December, 1989; is that correct?

19 A. On a Saturday, yes.

20 Q. And you indicate the defendants -- two of
21 the defendants -- two of the defendants, at least,
22 are Jose Bernardo Nieto and Juan Lamas; is that
23 correct?

24 A. Yes.

25 Q. So basically we have an investigation that

1 spans several files and some 15 months involving
2 Nieto and Lamas; is that correct?

3 A. Yes.

4 Q. And from the reports we have here, it would
5 appear that every load that Chacon was involved
6 with, that was going to this organization, was taken
7 down; is that correct?

8 A. Yes.

9 Q. One of the allegations made against you is
10 that you allowed Chacon to bring in some four loads,
11 totaling 1300 and some odd pounds, of marijuana for
12 this organization to facilitate the investigation.

13 Based on your experience as an
14 investigator, doesn't that seem a little suspicious
15 that over a 15-month period, the same group of
16 violators continue to deal with Chacon when every
17 load he touches seemed to get taken down? Or would
18 it be more likely that a few of those did get through
19 lending some credibility to the man?

20 A. I have no knowledge.

21 Q. I'm saying, take yourself apart from this.
22 Isn't it generally known that when a violator loses a
23 load, he tends to not trust the persons involved with
24 the seizure of that load; is that correct?

25 A. I don't know. Apparently, they still

1 trusted him.

2 Q. I'm saying in general. Isn't that
3 correct -- they tend not to want to deal with those
4 people any more; is that correct?

5 A. I mean, I don't know how you want me to
6 answer that question. How do you want me to answer
7 that question?

8 Q. I'm saying, would it be reasonable that
9 someone who's involved in drug trafficking with
10 another individual, who's responsible for bringing
11 that load to them, and they get busted with it, for
12 them not to trust the person that brought the load?

13 A. Apparently --

14 Q. They would be suspicious of them, would
15 they not?

16 A. They apparently still trusted them. He
17 kept on --

18 Q. I'm saying, in general, isn't that pretty
19 well the way it is?

20 A. Well, because -- my experience was they
21 still trusted him.

22 Q. I'm saying, in general, as a narcotics
23 investigator, have you ever not worked any cases
24 where a CI becomes burned, if you will, because they
25 delivered a load?

1 A. Well, usually, when one gets taken down,
2 that's it. It ends.

3 Q. Okay. But yet here we have a period of 15
4 months where they continue to go back to Chacon. So
5 it lends some credibility, is what I'm saying, to the
6 allegation that a few loads did get through.

7 A. Probably. I don't know.

8 Q. But you're saying you have no knowledge of
9 any loads being allowed to go through --

10 A. No.

11 Q. -- unseized to facilitate this
12 investigation?

13 A. No, no knowledge.

14 Q. Let me get you to read over this CLE-1,
15 dated 2-2 of '91, File No. N7A-91009.

16 (Long pause.)

17 A. Okay.

18 Q. (By Mr. Brubaker) After having read it, do
19 you recall writing this report?

20 A. Yes.

21 Q. Was McLean involved in this?

22 A. Later on.

23 Q. Okay. Was Chacon involved in -- was
24 Chacon a source of information in this report?

25 A. Yeah. He was afraid, and he said -- he

1 PRESENTATION ON BEHALF OF THE DEPARTMENT

2
3 JAIME ADAN BALLESTEROS,
4 the witness hereinbefore named, being first duly
5 cautioned and sworn to testify the truth, the whole
6 truth and nothing but the truth, testified as
7 follows:
8

9 DIRECT EXAMINATION

10 BY MR. BRUBAKER:

11 Q. When did you go to work for the Department?

12 A. May '79.

13 Q. And when were you promoted as Sergeant
14 Investigator?

15 A. January '87.

16 Q. How long were you stationed in McAllen?

17 A. Five-and-a-half years, maybe six. I left
18 in July of '93.

19 Q. And when were you promoted to Lieutenant?

20 A. July '93.

21 Q. While you were in McAllen working in the
22 Narcotics Service, could you tell me who your first
23 and second line supervisors were there during your
24 tour of duty?

25 A. Terry Bowers, my lieutenant -- okay.

1 told me that his name was Chemo, and for us to call
2 him Chemo. To refer to him as Chemo.

3 Q. So "Chemo" is --

4 A. Chacone.

5 Q. -- Chacone?

6 A. Yes.

7 Q. Are you aware that there's a business on
8 McCall Road there near Edinburg named Chemo also?

9 A. No.

10 Q. Basically, the way this report is written,
11 it indicates that Rios left with an unknown male who
12 was later identified as Chemo. And that's basically
13 a falsehood, is it not, because we know who Chemo is?

14 A. Well, he identified himself as Chemo. I
15 mean, the thing is -- and I went over it with the
16 supervisors that he wants to have his identity
17 protected.

18 Q. You're telling me that a supervisor
19 authorized you to --

20 A. He read this. He knows about it.

21 Q. Did you have a specific conversation with a
22 supervisor to use a pseudonym for Chacone in this
23 report?

24 A. I can't recall.

25 MR. EEDS: Is Chemo a Mexican

1 National?

2 THE WITNESS: That's what he said he
3 was. He was saying he wanted to be Mexican. If he
4 put Venezuela, right off the bat they would know --

5 MR. EEDS: Well, you know, Adan, that
6 what you write in the report is the truth, and what
7 you put in physical descriptions is the truth. And
8 you do not write reports based on the CI, what he
9 told somebody else. You put in this report what is
10 the truth. And you know that Chemo is not a Mexican
11 National?

12 THE WITNESS: Yes.

13 MR. EEDS: But you put it in the
14 report, did you not?

15 THE WITNESS: Right.

16 MR. EEDS: And you're saying your
17 supervisor knew that -- the way that this falsehood
18 is that you wrote in this report, your supervisor
19 gave you permission to write this report this way?

20 THE WITNESS: He approved it.

21 MR. EEDS: That's two different
22 things. Your approved supervisor approved this
23 report? Did you tell him who Chemo was?

24 THE WITNESS: Yes.

25 MR. EEDS: You're saying Floyd Goodwin

1 approved this report fully aware that Chemo was your
2 CI?

3 THE WITNESS: Yes, Floyd was the one
4 that's here (indicating). Yes.

5 Q. (By Mr. Brubaker) Was Special Agent
6 Thomas --

7 A. Because he was afraid. He was paranoid.
8 Yes.

9 Q. Was Special Agent Thomas K. Solis working
10 with you in conjunction with this case at this time?

11 A. Yes.

12 Q. Were there any formal meetings held with
13 DPS or DEA supervisors concerning this trip that
14 Chacone made to Mexico?

15 A. No, he had already come back and told us
16 about this, I think. I can't recall.

17 Q. Do you know if T.K. Solis obtained any kind
18 of official clearance for Chacone to travel to
19 Mexico?

20 A. I don't know.

21 Q. Did you speak with any of your supervisors
22 about obtaining authorization for Chacone to travel
23 to Mexico on this particular day?

24 A. Chacone was always in Mexico. He always
25 went back and forth.

1 Q. Were the DPS supervisors and DEA
2 supervisors aware of Jacone's frequent travels to
3 Mexico?
4 A. I know that Floyd knows that he went back
5 and forth.
6 Q. Was the initial reason you started working
7 with DEA and T.K. Solis specifically was to handle
8 the country clearance problem for Chacon traveling
9 back and forth --
10 A. Yes.
11 Q. -- to a foreign country?
12 A. Yes.
13 Q. Do you know if T.K. Solis obtained country
14 clearance for this trip?
15 A. I don't know.
16 Q. Did you have any discussions with T.K.
17 Solis about this trip concerning whether or not the
18 country clearance had been obtained?
19 A. I don't recall. He knows about the
20 report. He knows because Oto was talking to him
21 also.
22 Q. So T.K. Solis was well aware of the fact
23 that informants working in Mexico required prior
24 clearance, is that what you're saying?
25 A. Excuse me?

1 Q. I said, you're telling me that T.K. Solis,
2 through a conversation with you, made you aware that
3 he was fully aware of the fact that informants
4 working in Mexico required prior clearance from his
5 agency?

6 A. I wasn't aware. I mean, he didn't tell
7 me or -- I knew that we were going to do a load, that
8 we needed -- if they're going to bring something in,
9 we needed country clearance. That, I knew. See,
10 when Oto was always in Mexico, he would come back and
11 tell us what he did.

12 Q. But he never had prior clearance or
13 authorization to go? It was always after the fact
14 that the debriefings were held? You had no prior
15 knowledge that he was going?

16 A. On this one, I don't know if he -- I didn't
17 know that. He just came up and said he was meeting
18 with Onesimo Rios from McAllen.

19 Q. Adan, this is another CLE-1 in that same
20 file, N7A-91009, dated 4-23 of '91.

21 (Long pause.)

22 A. Okay.

23 Q. (By Mr. Brubaker) After reading it, do you
24 recall writing this report?

25 A. Yes.

1 Q. This is a continuation of the previous
2 report, basically, concerning plans to smuggle some
3 cocaine into the country involving Javier Pardo. You
4 now have him IDed. Before, you refer to him only as
5 T.O.; is that correct?
6 A. Yes.
7 Q. And you continue in this report to refer to
8 Chacon as Chemo; is that correct?
9 A. Yes.
10 Q. Was this trip to Mexico approved prior to
11 Chacon going to Mexico?
12 A. I don't know.
13 Q. Was T.K. Solis continuing to work on this
14 investigation with you?
15 A. Yes.
16 Q. Was he aware of this trip?
17 A. I think he was.
18 Q. Were there any conversations between you
19 and T.K. Solis concerning any prior authorization for
20 Chacon to make this trip to Mexico?
21 A. No.
22 Q. Do you know if McLean accompanied Chacon
23 on this trip?
24 A. I don't know.
25 Q. This is another CLE-1, from File N7A-91009,

1 dated 5-22-91. Could I get you to look that over,
2 please?

3 (Long pause.)

4 A. Okay.

5 Q. (By Mr. Brubaker) After reviewing that, do
6 you recall writing that CLE-1?

7 A. Yes.

8 Q. Again, this is a continuation of Jacone's
9 exploits with Pardo; is it not?

10 A. Yes.

11 Q. In that first detail, you indicate that you
12 and Special Agent T.K. Solis were the recipient of
13 this information; is that correct?

14 A. Yes.

15 Q. Was it provided by Chacona?

16 A. Yes.

17 Q. And, again, you continue to refer to
18 Chacona as Chemo?

19 A. Yes.

20 Q. It indicates that Chacona traveled to
21 Mexico City, and then to Las Angeles, and then to
22 Michigan. Were these trips authorized in advance by
23 you and T.K.?

24 A. We didn't know about them until he told us
25 on the 29th.

1 Q. Was Chacone ever given any instructions
2 about obtaining prior approval before traveling to
3 Mexico?

4 A. I don't know.

5 Q. Did you ever give him any of those kind of
6 instructions?

7 A. No, just that we needed to know when he was
8 flying something in because we needed to get
9 clearance.

10 Q. Did T.K. ever have any conversations with
11 Chacone telling him to obtain prior approval for
12 traveling to Mexico?

13 A. I don't know.

14 Q. So all of the information reported in this
15 particular report was given to you after the fact?

16 A. Yes.

17 Q. You didn't know that he was -- where he was
18 at and the activities that were going on until after
19 he got back; is that correct?

20 A. Well, the 29th is when he told us and we
21 got the information. And it says, in fact, the 20th
22 that he did all of this. And then the 30th, he had
23 that thing that he said that guy wire transferred.

24 Q. You indicate -- in Detail No. 3, you
25 mention an individual named McMath. Did you ever get

1 him IDed?

2 A. No, that's what he said his name was. He
3 didn't know if it was McMath or Mac whatever, and
4 that's the best I could do as far as getting him
5 identified.

6 Q. And that was strictly on information that
7 Chacona provided you?

8 A. Right.

9 Q. Well, while you and T.K. were working on
10 this particular investigation, were there ever any
11 discussions between you and TK, or between any of the
12 DEA or DPS supervisors, as to how the reporting would
13 be handled? Were you both going to write reports?
14 Was one of you going to write reports and refer to
15 the other one?

16 A. I don't recall.

17 MR. EEDS: That would be a pretty
18 important detail about who was going to do the
19 reporting of these things, wouldn't it, whether it
20 was you or T.K. or both of you?

21 THE WITNESS: I didn't even think
22 about it except when we took something down. We made
23 sure that there was one report.

24 MR. EEDS: Haven't you done
25 investigations before where you've worked with other

1 agencies and its always been told, "One person write
2 reports so that we don't have two reports that can
3 possibly contradict each other"?

4 THE WITNESS: When we took something
5 down, yes.

6 MR. EEDS: Well, even on surveillances
7 and stuff. You want to make sure that the
8 surveillance reports -- that one person doesn't write
9 something that's contradictory to another.

10 THE WITNESS: Well, T.K. knew I was
11 writing reports, so I don't know if he was writing
12 reports.

13 MR. EEDS: That was never discussed
14 between you, about who was going to write reports?

15 THE WITNESS: No.

16 Q. (By Mr. Brubaker) Did you provide TK with
17 a copy of every report you wrote?

18 A. I don't remember.

19 Q. Did he provide you with copies of any of
20 the reports that he wrote?

21 A. Yes. I don't know if I got them all, but I
22 had asked for some, and sometimes he would and
23 sometimes he didn't. And one time I got just a bunch
24 of them. I think I put a copy -- you know, one of
25 our headings on it and just submitted it that way.

1 Starting in what, '87?
2 Q. Yes, sir.
3 A. John Hatcher, Terry Bowers, and Beto Pena,
4 Floyd Goodwin, Juan Castillo.
5 Q. Are you familiar with the informant named
6 Robert McLean?
7 A. Yes.
8 Q. Could you tell me under what circumstances
9 that he came to work for you as an informant?
10 A. In '87, we had an investigation on Antonio
11 Franco, and we had a wire tap on Antonio Franco's
12 house, the DPS and DEA and FBI. And we busted out,
13 and McLean decided to cooperate and he became an
14 informant.
15 Q. Can you tell me about when McLean came to
16 work as an informant?
17 A. It was in '87, I think. Yeah, '87. I
18 don't know -- I can't tell you what month it was.
19 Q. Which agency initially documented him as an
20 informant?
21 A. We had him as an informant, DPS did and the
22 FBI had him as an informant.
23 Q. What was McLean's first participation as an
24 informant? Which investigation was he involved in?
25 A. We continued on the Franco case, which

1 Q. I need you to look over this DEA-6 -- this
2 is a debriefing report that was written by T.K. --
3 and tell me if you recall the activities that are
4 reported in this DEA-6.

5 A. What's the date on it?

6 Q. The date it was written, is that what
7 you're asking me?

8 A. Yes.

9 Q. July the 8th, '91.

10 (Long pause.)

11 A. I've not seen this one.

12 Q. (By Mr. Brubaker) Do you remember that
13 activity?

14 A. I wasn't there. You're talking about the
15 one that got taken down --

16 Q. No, I'm talking about -- do you remember
17 this meeting and having this debriefing with Chacona?

18 A. Yeah, Oto told us that they wanted to bring
19 a load in. I don't know about all the details,
20 though. I don't know about the grease and the
21 strips, but that he wanted to bring in a load of
22 cocaine.

23 Q. Okay. It indicates that on July 5th, that
24 you and T.K. debriefed Chacona and obtained this
25 information. Is it safe to say that T.K. reported

1 Q. I need you to look over this DEA-6 -- this
2 is a debriefing report that was written by T.K. --
3 and tell me if you recall the activities that are
4 reported in this DEA-6.

5 A. What's the date on it?

6 Q. The date it was written, is that what
7 you're asking me?

8 A. Yes.

9 Q. July the 8th, '91.

10 (Long pause.)

11 A. I've not seen this one.

12 Q. (By Mr. Brubaker) Do you remember that
13 activity?

14 A. I wasn't there. You're talking about the
15 one that got taken down --

16 Q. No, I'm talking about -- do you remember
17 this meeting and having this debriefing with Chacono?

18 A. Yeah, Oto told us that they wanted to bring
19 a load in. I don't know about all the details,
20 though. I don't know about the grease and the
21 strips, but that he wanted to bring in a load of
22 cocaine.

23 Q. Okay. It indicates that on July 5th, that
24 you and T.K. debriefed Chacono and obtained this
25 information. Is it safe to say that T.K. reported

1 this accurately, that you did meet on that day?

2 A. Yeah, we did meet with him because he said
3 they were going to bring something in.

4 Q. And the last detail in there indicates that
5 Pardo had requested that Chacone remain on stand-by
6 waiting for the cocaine to be crossed into the United
7 States. That he wanted it in the United States on
8 July 6th, 1991.

9 Can I get you to look at this copy of your
10 weekly report? And, in particular, the date dated
11 7-5 of '91. Could you read, for the record, what it
12 says?

13 A. "Travel to Brownsville and met with CS-6
14 and 22 and DA Solis. Reference, narcotics
15 investigation."

16 Q. And CS-6 is who?

17 A. Bob McLean. And 22 is Oto Chacone.

18 Q. CS-6 is McLean; is that right?

19 A. Yes.

20 Q. Okay. So that would tend to corroborate
21 what's in that report, that you all did meet with
22 them on the 5th?

23 A. We met with them, yes.

24 Q. This whole investigation was directed
25 towards bringing a load of cocaine into the United

1 States that was being supplied by Pardo; is that
2 correct?

3 A. Yes. To take it to Warton, Texas.

4 Q. According to Chacon and McLean, based on
5 the information they had been able to provide, it
6 would appear that a load was brought into the United
7 States on July 6th, 1991, pursuant to this
8 investigation. Do you know what the 2,200 plus
9 pounds of cocaine that was seized in Fort Bend County
10 in this investigation -- do you know when it entered
11 the country?

12 A. No.

13 Q. So it could have come in on the 6th; is
14 that correct?

15 A. It could have.

16 Q. This is a CLE-1, dated 9-6 of '91, File
17 No. N7A-91009. Could I get you to review that,
18 please?

19 (Long pause.)

20 A. Okay.

21 Q. (By Mr. Brubaker) After reviewing that, do
22 you remember writing this CLE-1?

23 A. Yes.

24 Q. You indicate in Detail No. 1 that on the
25, 7th of July, 1991, that you received information that

1 a shipment of cocaine was to be air smuggled into the
2 United States by the Javier Pardo organization; is
3 that correct?

4 A. Yes.

5 Q. And you had no knowledge when you wrote
6 this, indicating that this information was received
7 on the 7th of July, that the cocaine was already in
8 the country?

9 A. No.

10 Q. Well, who would have authorized them to fly
11 to Mexico to pick up the load?

12 A. Well, they told us that they were going to
13 do it. T.K. knew about it. That's why I work with
14 DEA.

15 Q. Did you and T.K. Solis have any specific
16 conversations about this particular load of cocaine
17 and whether or not prior country clearance was
18 obtained?

19 A. No. It was just I knew I wasn't going to
20 be around because I got sent to a school. So I told
21 him to make sure to contact Customs and make sure
22 that Gavito, the DEA investigator that worked with
23 them, wasn't there. Because Chacon had mentioned
24 that he was afraid of him. And my concern was to
25 make sure that everything went well since I wasn't

1 going to be there.

2 Q. Was Chacon in touch with you on a regular
3 basis during this time?

4 A. Yeah, he would call every once in a while,
5 basically crying that he didn't want Gavito there.

6 Q. Would there be any reason for Chacon not
7 to tell you that the cocaine was in the country?

8 A. I don't know. There shouldn't be.

9 Q. In Detail No. 3, you indicated on the 9th
10 of July, 1991, that you made contact with Lieutenant
11 Goodwin and advised him that the probability of the
12 cocaine shipment arriving into the US was imminent
13 and requested assistance in following the cocaine to
14 Houston, Texas and seizing the cocaine shipment; is
15 that correct?

16 A. Yes. I talked to Floyd several times on
17 the phone and told him that it's going to come in and
18 take care of it. And he said, "Yeah, we will. We
19 will. We will." And he didn't like Armondo
20 Ramirez. And I had a real bad feeling that things
21 weren't going to go well because they didn't like
22 each other. That's the feeling that I got.

23 Q. At the time you made this call, did you
24 know whether or not the cocaine was in the country?

25 A. No.

1 Q. Were there any discussions with you and/or
2 T.K. with any DPS or DEA supervisor -- supervisors as
3 to how the investigation was to proceed and how the
4 seizure was to be handled?

5 A. I told Floyd just make sure they didn't
6 burn it. That was my only concern. And that Gavito
7 not be there. I also told T.K. to make sure that
8 this was a DPS/DEA investigation, not DPS and Task
9 Force. That I didn't want Gavito there. But, again,
10 I had no control over that.

11 Q. When the seizure was finally made, do you
12 know if everyone was in agreement with the way the
13 seizure was handled?

14 A. I don't know.

15 Q. Did you ever hear of any disagreements
16 concerning the way that the seizure was handled?

17 A. Floyd told me that they got contacted late
18 and they had to rush to catch up with the group. Oto
19 Chacon told me that it got burned, and he was scared
20 how it got taken down.

21 Q. Do you know why Lieutenant Goodwin would
22 have been called late?

23 A. I have no idea.

24 Q. Do you know who all participated in the
25 surveillance and seizure of the cocaine?

1 A. No.

2 Q. Was your concern about Gavito being there
3 strictly because of what Chacono had told you?

4 A. Yes. I think maybe Gavito was there. I
5 know the DEA was. And who else was there, I don't
6 know. I think part of the Task Force was there, but
7 I don't know who else.

8 MR. PARKER: If you're going to be
9 much longer, I'm going to have to make a couple of
10 phone calls. You're getting me in another bind now.

11 MR. BRUBAKER: Let's go ahead and take
12 a break so Mr. Parker can make his phone calls.

13 MR. PARKER: How much longer do you
14 think you're going to be, sir?

15 MR. BRUBAKER: Honestly, sir, I don't
16 know. Roughly, I would guess, we're about half-way
17 through.

18 MR. PARKER: Okay.

19 (Brief recess.)

20 MR. PARKER: Let's go.

21 Q. (By Mr. Brubaker) This is a CLE-1, dated
22 7-15 of '91, in File N7A-91030. Can I get you to
23 review that, please?

24 (Long pause.)

25 A. Okay.

1 Q. (By Mr. Brubaker) That's basically a
2 report by, then, Trooper Martinez detailing the
3 seizure of the cocaine; is that correct?

4 A. Yes, that's what that report indicates.

5 Q. Did you have any conversations with Trooper
6 Martinez on how this report should be written?

7 A. No.

8 Q. Do you know why this report was written as
9 a traffic stop?

10 A. No.

11 Q. Let me refer you back to the CLE-1 dated
12 9-6 of '91, File N7A-91009.

13 A. Okay.

14 Q. Detail 4 is the only reference you make to
15 the seizure; is that correct?

16 A. Yes, I think it is. What's the date of
17 that report there?

18 Q. Which report?

19 A. Betty's report.

20 Q. It's dated 7-15 of '91.

21 A. Yeah, that's the only time on this report.

22 Q. So you did not make a report on this
23 seizure other than the one detail and the report you
24 just looked at; is that correct?

25 A. I can't remember.

1 Q. Do you know if T.K. Solis wrote a report on
2 this seizure?

3 A. I don't know.

4 Q. Did you ever receive a report from T.K.
5 Solis about this seizure?

6 A. I don't remember. I don't recall seeing
7 one.

8 Q. Did you have any conversations with T.K.
9 Solis as to when this load of cocaine was brought
10 into the country?

11 A. No.

12 Q. Did you have any conversations with Chacon
13 or McLean as to how this load was brought in the
14 country?

15 A. No.

16 Q. Was this not an important case for you?

17 A. It was to me, but I got sent off to
18 school. I wanted to be there, but I wasn't allowed
19 to.

20 Q. Who was it that didn't allow you to go?

21 A. Floyd Goodwin.

22 Q. Is there a particular reason he didn't
23 allow you to go?

24 A. When he first got there -- I don't know
25 through jealousies or what it was with the rest of

1 was actually, after we busted Franco, it was taken
2 over by Ricardo Garza.

3 Q. Can you tell me what McLean's specific
4 instructions were for participating in the
5 investigation?

6 A. To give information.

7 Q. Did he take any active part other than
8 providing information?

9 A. Yes, he flew the airplane.

10 Q. Flying loads?

11 A. Right.

12 Q. And he was flying the loads for Garza?

13 A. For Garza -- let's see, I think Garza had
14 already been busted, I think. So then he started
15 with Manual Saldiva, I think it is. And I think it
16 was through him that he was flying loads and were
17 busted behind him and Manual Saldiva. But I think
18 they were still part of the Franco Garza
19 Organization.

20 Q. Okay. During your period of working this
21 case with the FBI, do you remember whether or not the
22 FBI allowed any of the loads that McLean flew into
23 the country to get through in furtherance of the
24 investigation?

25 A. No.

1 the agents, I guess because I was seizing large
2 amounts of narcotics, that they didn't want me to
3 work big cases any more. Floyd told me not to work
4 these cases and to work undercover.

5 Q. Who is "they" didn't want you to work?

6 A. I guess the other agents in the office.
7 Well, not they didn't want me to work. They were
8 jealous. And Floyd did not want me to work. He told
9 me to finish up what I'm doing and start working
10 undercover. And that upset me.

11 MR. EEDS: So you just washed your
12 hands of this case?

13 THE WITNESS: No. I mean, this case
14 hadn't even come up yet. So I then turned to work
15 with FBI. And I asked T.K. to teach me how to work
16 undercover. I hadn't been to undercover school. I
17 started working with the FBI, and they stuck me in
18 undercover just because they wanted me to start
19 working undercover.

20 MR. EEDS: Well, when James asked you
21 if you had -- if T.K. had written a report, you said
22 no -- or if you had seen one, you said you didn't
23 remember. He asked you if you had asked Chacon and
24 McLean how this load got here or when, you said, no,
25 you didn't. I can't remember the other question, but

1 your response was no, which means you just weren't
2 concerned about it.

3 THE WITNESS: I wasn't there. I mean,
4 what can I do? I wasn't even there.

5 MR. EEDS: But you're the controlling
6 agent of those CIs.

7 THE WITNESS: I was not there. I
8 tried to be there. I got on the phone. I made
9 several phone calls to McAllen, wanted to know what
10 was going on, "Keep me in touch." This is when I was
11 on break. Finally, when I got out of class, I
12 flew -- I got in my car and went to -- going towards
13 Houston to see if I can intercept -- get some kind of
14 information. I would get a phone call -- or I
15 called -- I don't know where I called, McAllen or
16 something. "It got taken down. The cocaine is
17 already in route back to Austin." So I just turned
18 around and came back to Austin.

19 Q. (By Mr. Brubaker) You never had any
20 discussions with Chacona or McLean about this
21 seizure?

22 A. Afterwards, yes. Chacona was very scared.
23 He was very scared about them thinking that it was
24 him. He was very disappointed about how it got taken
25 down.

1 Q. Who made the decision to take it down the
2 way it was taken down?

3 A. I don't know.

4 Q. You never had a discussion with your
5 supervisor about -- if Chacone was that upset, I
6 assume you were upset because he was upset. You
7 never had a discussion with your supervisor about how
8 it was handled?

9 A. No, just that he needed -- Chacone wanted
10 something in the newspaper showing that it got taken
11 down by law enforcement, because that's what they
12 normally do or whatever, so he can prove he did not
13 take it.

14 Q. Were you aware of any problems that
15 developed with Mexico over this seizure?

16 A. Mexico DEA?

17 Q. Mexico DEA.

18 A. Yes, they came and talked to me and T.K.

19 Q. Do you know what the trouble was over?

20 A. No. It kind of switched to -- what I
21 gathered was -- was that an agent from Mexico City, I
22 think it was, that they had gotten into his apartment
23 or something and put an egg, which indicated they
24 were going to get him or something, and then made
25 this case a priority. That's what I came to

1 understand.

2 Q. Did you and T.K. Solis ever have any
3 discussions as to whether or not this load had been
4 cleared through Mexico DEA?

5 A. I don't know. No.

6 Q. "No," you didn't, or "No," you don't know
7 if you had that conversation?

8 A. No, we didn't. And I don't know whether he
9 had clearance or not. After that, all the emphasis
10 went on Oto because he was afraid of getting killed
11 and how the take-down happened.

12 Q. Did T.K. ever mention to you being in
13 trouble --

14 A. No.

15 Q. -- because of the problem with Mexico?

16 A. No.

17 Q. Did T.K. ever discuss with you whether or
18 not he wrote a report on this seizure?

19 A. No.

20 Q. Were there ever any meetings between you
21 and T.K. and DEA supervisors and DPS supervisors
22 about where this case should go from this point?

23 A. No. Not that I can recall, no.

24 Q. So here you've got a file where you
25 continued to mention the Cali Cartell, and we do a

1 ton of cocaine, and everybody just drops the case,
2 nobody cares about it anymore?

3 A. I think I got cut out by DEA. Months went
4 by -- or I don't know how long went by. And Terry,
5 my captain, then went to a meeting with DEA or
6 funding or something and this came up, this
7 investigation. And that they had ties in the
8 Colombian and this and all of that, and I was never
9 mentioned. And Terry got mad that I was not part of
10 it. So I got -- I called T.K. and I got mad.

11 And then they had a meeting and I got
12 invited down to that meeting. Me and Juan Castillo
13 went to that meeting down on Padre Island. It was
14 DEA, and DEA out of Colombia, and DEA analysts out of
15 Washington. But when TK presented the case, I don't
16 know if it was for money or what it was, I don't
17 think that DPS was even mentioned. And Terry
18 realized, "Hey, this is a case that Adan's been
19 working on." And then that's when I got mad.

20 Q. That meeting you're referring to was quite
21 a bit later, though, was it not?

22 A. I don't recall how long later, but it was
23 later. Also, T.K. went into the hospital, so that
24 went down. I was having back problems, and I had
25 back surgery. I was also doing other investigations

1 with JTF-6 and trying to work undercover because they
2 wanted me to work undercover.

3 Q. Prior to this time, since becoming an
4 investigator, had you ever worked undercover?

5 A. No. I guess in-between here and there --
6 because after Floyd told me to -- I think I started
7 working undercover.

8 Q. But you felt that was an unfair request for
9 you to learn the skills of working undercover, having
10 never done it before?

11 A. No.

12 Q. Would you take a look at this report
13 written by Joe Sagnibene, dated 5-3 of '93, in File
14 N7A-91009, Detail 1, in particular. Could you read
15 me what Detail 1 says, for the record, please?

16 A. "On 4-6-93, Sergeant Investigator Sagnibene
17 and Ballesteros and Lieutenant Castillo traveled to
18 South Padre Island to attend a meeting with Drug
19 Enforcement Administration representatives from
20 Colombia, Mexico City, Houston, Los Angeles,
21 Washington, D.C., and Brownsville.

22 "The meeting was held in order to
23 establish and formalize plans in reference to the
24 Bermudas Antonio Drug Smuggling Organization."

25 Q. Was that a fair representation of what

1 happened?

2 A. Yeah, we went out there and they discussed
3 what they had. And we just went there and sat and
4 listened.

5 Q. So that was some two years -- or close to
6 two years after this seizure; is that correct?

7 A. That was -- what was that date?

8 Q. April of '93.

9 A. About a year, what, a year-and-a-half.
10 After my surgery and after T.K. got out of the
11 hospital.

12 Q. And you never had any conversations with
13 Trooper Martinez about how the report should be
14 written on the seizure?

15 A. Not that I can recall.

16 Q. After this seizure, there was no plans made
17 to attempt any more seizures or to continue on with
18 the investigation?

19 A. After that was taken down, the main concern
20 was Oto. That they believe that it wasn't his fault,
21 and that he proved that the strip was safe. And they
22 wanted him to bring in more cocaine.

23 Q. Did Chacon travel to Mexico right after
24 this seizure was made?

25 A. Yes.

1 Q. Was he shown 22 tons of cocaine in Mexico?

2 A. He said he saw a lot of cocaine. I don't
3 know how many tons, but a lot.

4 Q. Apparently, for them to show him that much
5 and let him come back, they still trusted him; is
6 that correct?

7 A. Yeah, and that's because we took down the
8 load -- or it got taken down.

9 Q. Did you and T.K. continue working with
10 Chacon in an effort to bring another load of cocaine
11 in from Pardo?

12 A. No. After that, it was just mainly to
13 cover for him and to -- they were interested in
14 bringing in the load, but the main concern was to
15 prove that this one was not his fault for going down.

16 Q. Another one of the allegations that was
17 made against you, Adan, was that you allowed and
18 authorized Chacon and McLean to fly to Mexico, pick
19 up 2,000 kilos, in back-to-back trips, of cocaine and
20 bring them back and, ultimately, take them to Houston
21 where they were distributed.

22 This is a copy of your weekly report from
23 July 14th, 1991, through July 20th, 1991. Could you
24 read the activities for me for Monday, 7-15 of '91?

25 A. "Travel to Brownsville and met with DEA

1 Special Agent T.K. Solis and CS-22," that's Oto
2 Chacone.

3 Q. And also for the 16th of July?

4 A. "At McAllen DPS office, met with Lieutenant
5 Goodwin and CS-22. Reference, payment and continuing
6 investigation." And then took six hours sick
7 leave -- four hours sick leave.

8 Q. On the 18th of July?

9 A. 17th, I also had sick leave. On the 18th,
10 "At McAllen DPS office and with CS-6," which is Bob
11 McLean, "in the Westway area. Assisted Sergeant
12 Investigator Victor Escalon in search warrant
13 execution in the Progreso area."

14 Q. So at least the week following this
15 seizure, you were still actively working with the
16 informants and T.K.; is that correct?

17 A. Yes.

18 Q. This is a copy of your weekly for the week
19 of 7-21-91 through 7-23-91. Could you read me the
20 activities for Monday, the 22nd of July, 1991?

21 A. "At McAllen DPS office and met CS-6,"
22 that's Bob McLean, "in the Westway area."

23 Q. Could you read me the entry for 7-23-91?

24 A. "Traveled to Brownsville, met with CS-22,"
25 that is Oto Chacone. "Reference, narcotics

1 investigation."

2 Q. Could you also read me the entry for
3 7-24-91?

4 A. "Traveled to Harlingen and met with DEA
5 Special Agent T.K. Solis and Mexico City DEA Agent,
6 David" -- I can't tell.

7 Q. Okay.

8 A. "And Guadalajara DEA, Jaime Castillo.
9 Referencing procedure, Colombian and Mexican cocaine
10 smuggling."

11 Q. Okay. Could you read the entry for 7-25 of
12 '91?

13 A. "Travel to Weslaco and met with" -- 25?

14 Q. Yeah.

15 A. "Traveled to Brownsville and met with CS-22
16 and DEA T.K. Solis. Reference, air smuggling.
17 Assisted Ruben Duran in the Falferious, Texas, air on
18 surveillance. And arrest defendant and seizure of 20
19 pounds of marijuana."

20 Q. Okay. Could you read the entry for 7-26 of
21 '91?

22 A. "Traveled to Weslaco and met with CS-6,"
23 Bob McLean, "22," Chacon, "and DEA Special Agent
24 T.K. Solis. Reference, air smuggling."

25 Q. And could you read the entry for 7-27-91?

1 Q. "No," you don't remember, or "No," they
2 didn't?

3 A. No, I don't know.

4 Q. Okay.

5 MR. EEDS: Was he your informant at
6 that time or someone else's?

7 THE WITNESS: Mine and the FBI's --
8 what's his name -- Claudio De Joel from FBI.

9 Q. (By Mr. Brubaker) Did you all have joint
10 control of McLean at that time?

11 A. Yes.

12 Q. Okay. And who was paying the rewards to
13 McLean at that period of time?

14 A. We didn't pay him until after trial. I
15 think maybe one or two years later, something like
16 that. The FBI paid him.

17 Q. So his assistance was strictly for
18 consideration in his legal problems at the time?

19 A. Well, they weren't going to pursue anything
20 on him. He just did that, and then they paid him.
21 The FBI paid him.

22 Q. The FBI paid him?

23 A. Yes. DPS didn't pay him anything, if I can
24 recall.

25 Q. Was McLean being paid by the violators at

1 A. "In Weslaco on surveillance and CS-22 and
2 T.K. Solis."

3 Q. So that would be two weeks after the
4 seizure. So you all were still all working together
5 at that time based on your weekly; is that correct?

6 A. Yes.

7 Q. According to information provided by
8 Chacon and McLean, as well as some records they
9 provided, the 2,000 kilos was brought in in 1,000
10 kilo lots back-to-back on the 26th and 27th of July.
11 Both of those days you show meetings with them and
12 being on surveillance.

13 A. Oh, I was out there, yes. They called us
14 and talked to us.

15 Q. Were you aware that they flew into Mexico
16 those days?

17 A. No.

18 Q. Well, what were you surveilling, what
19 activity?

20 A. On them. They wanted to meet with us.

21 Q. You indicate you were on surveillance. You
22 wouldn't surveil the CIs unless they were meeting
23 with somebody or doing something.

24 A. Yeah, they said they were going to go look
25 at a strip or go down to Mexico. We knew they were

1 going to Mexico.

2 Q. It indicates you met with them both days in
3 Weslaco.

4 A. Yes, that's the half-way point.

5 Q. Both of those loads were brought into the
6 Weslaco Airport?

7 A. That's what they say.

8 Q. And on both days, according to your weekly,
9 you and T.K. were both in Weslaco when those loads
10 were brought in?

11 A. They called us there.

12 Q. Well, how would you explain them being able
13 to bring those loads in with you all down there if
14 you didn't have knowledge of it?

15 A. We weren't at the airport.

16 Q. Where did you meet them at?

17 A. At HEB or in a parking lot somewhere. They
18 didn't want us around the hanger because they didn't
19 want us to burn it.

20 Q. Burn it from who?

21 A. From other crooks. There was a guy there,
22 that worked there, named Cavazos. And Bob did not
23 want me going to the hanger.

24 Q. You never went to the hanger ever?

25 A. Yes.

1 Q. On what occasion did you go to the hanger?
2 A. Because we were going to use it for the
3 JTF-6 investigation.
4 Q. Was that before or after this
5 investigation?
6 A. I think during. We were getting prepared.
7 I think, also that day, I went down to Progresso and
8 was surveilling that airstrip because we were looking
9 at, I think, five airstrips: Progresso, Weslaco,
10 Donna, Raymondville -- I think two in Raymondville.
11 Q. Is there some reason you wouldn't have
12 included those areas on your weekly?
13 A. No, because Progresso is right next to
14 Weslaco.
15 Q. On that particular Friday, the 26th, there
16 was constant telephone traffic between all of you
17 all. And you make a credit-card phone call to the
18 Warton County Sheriff's Department during the
19 afternoon of that first day. Do you know why you
20 would call them in the middle of -- according to your
21 report, you were in Weslaco at that time.
22 A. Yes.
23 Q. Why would that have been?
24 A. That I called Warton?
25 Q. Yes.

1 A. Because they wanted -- they wanted to go
2 see airstrips because they needed to prove -- and Oto
3 was crying. He was afraid. Because I was told that
4 he was held ransom, and that Pardo paid \$3 million
5 for him. And that he needed to prove that the strip
6 was okay. It was cool. And he wanted to bring
7 somebody in that they had in Brownsville to show him
8 the strip.

9 Q. Who was the guy in Brownsville they wanted
10 to show the strip to?

11 A. One of Pablo's people.

12 Q. What was the point of showing them the
13 airstrip in Weslaco? The load wasn't taken down at
14 Weslaco.

15 A. That's where they wanted to meet.

16 Q. Why did they pick Warton?

17 A. Because that's where the other load came
18 in, the one that got taken down. They wanted to see
19 where it got taken down.

20 Q. It wasn't taken down at Warton. It never
21 went to Warton.

22 A. The thing is that that's what Oto told
23 them. That they flew it into Warton.

24 Q. You don't recall who it was from
25 Brownsville they wanted to show this strip to?

1 A. Well, I don't know if that person was from
2 Brownsville. That's where they were picking them up.

3 Q. Did they ever pick him up?

4 A. Yeah, when they took them on the 31st or
5 the 30th. I was under the impression they wanted to
6 go right then and there.

7 Q. Could you read the entries from your weekly
8 for July 30th and 31st, 1991?

9 A. "Traveled to Warton. Reference, air
10 smuggling operation on Javier Pardo, Colombian
11 Cocaine Enterprise."

12 And July 31st, "In Warton, Texas, as
13 above. Returned back to duty station."

14 Q. You're telling me on that day McLean and
15 Chacono flew another crook into Warton?

16 A. Right. That's what they tell me.

17 Q. That's what they told you?

18 A. Uh-huh.

19 Q. You didn't see them?

20 A. No.

21 Q. Well, what was the purpose of you being
22 there?

23 A. To apologize, for one, to the captain from
24 Warton that he was not used on the take down in Fort
25 Bend county. And two, that they wanted to see other

1 strips. The day before, we went to Freer to --
2 Q. "They" who?
3 A. Excuse me?
4 Q. "They" who?
5 A. Six. Because they wanted to bring in
6 another load. You know, I didn't believe it. We
7 just took down a load. How were they going to want
8 to bring in more?
9 MR. EEDS: Who, Oto?
10 THE WITNESS: No, the Colombians.
11 So --
12 Q. (By Mr. Brubaker) Did you ever see them in
13 Warton?
14 A. No.
15 Q. Did you talk to them any time during that
16 day?
17 A. Yeah, I called -- Oto never called me
18 back. My concern was, as well as T.K.'s -- T.K. told
19 me to go down there -- was in case Pardo came in
20 himself, to have him arrested.
21 Q. How were you supposed to know if Pardo came
22 in?
23 A. Chaconne was supposed to call me and tell
24 me.
25 Q. How was he going to call you and tell you?

1 A. Page me.

2 Q. And when was he going to do this, after

3 they got to Warton?

4 A. Yes. They were supposed to take off, go to

5 Houston and then return back the next day.

6 Q. So two days that you were in Warton, you

7 never talked to Chacona?

8 A. Never -- well, that night, I think he

9 finally called me.

10 Q. You mean the first night, the 30th?

11 A. Yeah. It might have been in the morning --

12 early in the morning. It might have been the 31st,

13 1:00 a.m. or somewhere.

14 Q. When you left to go to Warton that morning,

15 did you have any contact with Chacona?

16 A. I don't know. I might have called him or

17 we talked the day before or that morning. I don't

18 know.

19 Q. Did you have any contact with McLean that

20 day?

21 A. I don't know if I called him or not.

22 That --

23 Q. Did you ever -- I'm sorry. Go ahead.

24 A. That day, the 30th, I did call him because

25 I never heard anything. So I called had him to ask

1 him what happened.

2 Q. And what did he tell you happened?

3 A. Well, I asked him, you know, who came in.

4 And he said a female and a child carrying a

5 suitcase. And I asked him if there was anything in

6 the suitcase, you know, narcotics. And he said no or

7 that he didn't know.

8 Q. And those people rode in the plane with

9 Chacon and McLean?

10 A. Right.

11 Q. And which plane did they come in?

12 A. I don't know.

13 Q. And you talked to him the night of the 30th

14 and he told you that those people had come to the

15 airport and he let them out at the airport?

16 A. Who are you referring to?

17 Q. The person with the suitcase and the

18 child.

19 A. Yeah. When they came in on the 30th, it

20 was the female and the child.

21 Q. And he left them at the Warton Airport?

22 A. Yeah, with Chacon.

23 Q. Chacon stayed?

24 A. Yes.

25 Q. He stayed at the Warton Airport on the

1 30th?

2 A. According to Bob.

3 Q. And Bob flew back?

4 A. I think -- well, yeah, because I called him
5 in the valley.

6 Q. And the 31st, was Chacono or McLean at that
7 airport?

8 A. I think they both were.

9 Q. They came back the next day?

10 A. On the 31st.

11 Q. Why did they come back the next day?

12 A. To pick up that girl -- that lady, who I
13 thought was supposed to be a guy. They told me it
14 was going to be some people to see the strip.

15 Q. And where did those people stay while they
16 were in Warton?

17 A. In Houston.

18 Q. How did they get to Houston?

19 A. I don't know.

20 Q. So on the 31st, Chacono and McLean picked
21 up this lady and this child and all four of them went
22 back to the valley in Jacone's plane?

23 A. Right.

24 MR. EEDS: Did you ever make contact
25 with, I think you said the Captain, who you wanted to

1 apologize to?

2 THE WITNESS: Yes, he was with me.

3 MR. EEDS: For how long?

4 THE WITNESS: I think an hour or so.

5 We were at the DPS office, and I talked to a trooper
6 that I saw driving by there. And we waited there and
7 it was about an hour.

8 Q. (By Mr. Brubaker) What was the captain's
9 name?

10 A. Larry Hensley.

11 Q. Did you ask Hensley to have the local
12 police stay away from the Warton Airport?

13 A. No.

14 Q. So if he says that, he's lying?

15 A. Yes, if that's what he says.

16 Q. And Chacone and McLean moved 2,000 pounds
17 of cocaine through that airport that day and you're
18 there and you don't know nothing about it?

19 A. I don't know anything about it. I wasn't
20 at the strip.

21 Q. How many phone calls do you think that you
22 made to Bob and Chacone over that two-day period?

23 A. I got paged, and he called me about six,
24 seven, eight -- I don't know how many times. A lot
25 of times.

**DEPARTMENT OF PUBLIC SAFETY
State of Texas**

Voluntary Statement

THE STATE OF TEXAS

COUNTY OF BEXAR

Before me, the undersigned authority in and for said County and State, on this the 6th day of August, A. D. 1996, personally appeared Oto Vilmer Chacon, who, after being by me duly sworn, deposes and says:

My name is Oto Vilmer Chacon. I am 39 years old and I live at 12914 North Hunters Circle, San Antonio, Texas. I became an informant for Adan Ballesteros in 1989. I became an informant after Bob McLean helped make a case against me.

Prior to working on Tio, I assisted Adan in an investigation involving Juan Lamas. During the Lamas investigation, I transported four loads of marihuana for Lamas which were never seized. I transported the four loads under the direction of Adan and T. K. with the understanding that the loads would not be seized in order for me to build credibility with Lamas. The first load was four hundred pounds of marihuana which was flown from an airstrip near Vera Cruz, Mexico to the Wharton Airport. I think this load was flown while Adan was still working with the F. B. I. The second load was in excess of three hundred pounds which was transported from Weslaco to Wharton. The third load was one hundred fifty pounds which was transported from Harlingen to Wharton. The fourth load was in excess of five hundred pounds which was transported from Michoacan, Mexico to Matamoros, Mexico. Adan eventually seized about 8,000 pounds of marihuana from several locations in the San Benito area. There was about 12,000 pounds total but Adan missed about 4,000 pounds.

During the summer of 1991, I told T. K. and Adan that Tio wanted me to transport cocaine from Mexico to the United States. I told T. K. and Adan that Tio had 1000 kilos of cocaine in Vera Cruz, Mexico and 3000 to 5000 kilos of cocaine in Guadalajara, Mexico which needed to be transported to the United States. I remember telling T. K. and Adan about the cocaine but do not remember if it was in person or by telephone. I also remember that Tio had definitely set a deadline because arrangements had to be made to secure the Mexican airstrip and finalize plans for the shipment. I do not remember telling the agents specifically that the cocaine had to be in the United States by July 6, 1991. Tio gave me a pager number for someone in Houston three or four days prior to picking up the cocaine. I gave this number to T. K. and Adan. I called the number but thought the guy was crazy. I told Tio about the guy and Tio provided me with another pager number, saying someone else would pick up the load. I received the second pager number after Bob and I had already flown the cocaine in from Mexico. During the



preparation for this load, I maintained daily contact with T. K. and Adan from my home telephone as well as cellular telephones. I had three cellular telephones during this time which had been purchased from Rio Radio Supply in Brownsville, Texas. I believe one of the cellular numbers was 512-549-6114. This telephone number was listed to Airtime Service, Otto Chacon, 2100 W. Marcelo Blvd., Brownsville, Texas. I think Bob used the cellular number 512-549-6114. I did have three cellular telephones, one which Bob used, a portable, and one in my truck. I was unaware of the story which was used by T. K. concerning me being kidnapped and made to fly in the 1055 kilo load of cocaine from Mexico to the United States. The kidnapping never happened. T. K. and Adan did gave Bob and I a story to use if intercepted during the return flight by U. S. Customs. Bob and I were to say that the flight south was merely to check out a landing strip and once in Mexico Bob and I had been forced to fly the load of cocaine back to the United States. During this flight to pick up the 1055 kilos of cocaine, I called Adan from a portable cellular telephone during the flight. The flight took a little over four hours to make. The 1000 kilos of cocaine was stored in the hanger at the Weslaco Airport for several days. Prior to taking the 1055 kilos of cocaine to El Campo, T. K. told me to say if I was asked that the cocaine came in the morning that the load was moved to El Campo, Texas. T. K. told me and Bob that as far as anyone knew the cocaine was brought in that morning. On the morning that Bob and I took the 1055 kilos of cocaine to El Campo, Bob and I arrived at the Weslaco Airport hanger between 7:00 A. M. and 8:00 A. M. Bob and I loaded the suburban and Bob and I were the only occupants of the suburban when we left the Weslaco Airport going to El Campo. Bob and I went through Harlingen to El Campo. I remember two agents in a white truck meeting Bob and I along the way to install a kill switch. I remember being alone when I delivered the suburban to the Burger King in El Campo. I was picked up at the Burger King by a friend of mine named John Ortiz who drove my beige pick-up truck to El Campo so that Bob and I would have transportation after the delivery. Ortiz was part of the caravan of agents that followed Bob and I to El Campo. Ortiz picked up me up at the Burger King and then Ortiz and I went and picked up Bob. I do not remember where Bob was picked up from.

After picking up Bob, Ortiz, Bob and I traveled to Houston Intercontinental Airport where I boarded a flight to Guadalajara, Mexico. I boarded a Continental Airlines flight around 6:00 P. M. I did not talk with T. K. or Adan prior to leaving but did talk to T. K. and Adan after returning from Mexico approximately four days later. T. K. and Adan were aware that I was going to fly to Mexico following the delivery of the cocaine as it was part of the plan all along. I arrived in Mexico between 9:00 P. M. and 10:00 P. M. I believe that the return flight was either Continental Airlines into McAllen or Aero Mexico into Matamoros. When I got back, I met with T. K. and Adan and was debriefed regarding the trip to Mexico.

Sometime after I returned from Mexico, I went to a meeting with DEA agents from Mexico. I remember the meeting but I don't remember the date. The agents from Mexico were interested in my meeting with Tio and the twenty-two tons of cocaine that I saw in Guadalajara.

I can't recall when the first conversation was about the 9000 kilos of cocaine that Tio wanted brought into the U. S. but I do remember that several conversations took place concerning the 9000 kilos of cocaine. The conversations took place on the telephone as well as in person and at one point I accompanied Tio to an airstrip in Mexico where the pick up was to be made.

The Aero Commander had to be repaired after the 1055 kilo delivery. I believe the repairs were made in Oklahoma City at a place called O'NEILL's. I don't remember the exact repairs.

The next load of cocaine involved the back to back trips where Bob and I flew a 1000 kilos of cocaine each load into Weslaco Airport. During the trips, I talked with Adan using a cellular telephone and Bob used an aircraft radio to talk with Adan. I believe that Adan was in the area of the Weslaco Airport when the two trips were made but I believe that T. K. was in Brownsville. I believe that after the second load, Bob and I met T. K. and Adan at the park and discussed whether the 2000 kilos should be seized or allowed to be delivered. Bob and I both told T. K. and Adan that if the load was seized that neither Bob nor I would return to Mexico.

Prior to the flights, I would call T. K. and Adan to confirm that everything had been approved and then let Bob know. After bringing the 2000 kilos of cocaine into Weslaco, the cocaine remained in the hanger for four to five days. During this period of time, I was in contact with Tio but not with any of the customers. I believe that T. K. and Adan made a decision to deliver the cocaine on about the third day. On the day prior to the first 1000 kilos of cocaine being flown to Wharton, I drove Enrique and Armando Casas to Wharton in my truck. I showed the Casas brothers the setup at the Wharton Airport and then drove into Houston where a blue van was purchased. Enrique Casas purchased a small Pontiac. The Casas brothers remained in Houston and I returned to Brownsville. The following day at approximately 7:00 A. M., Bob and I flew the first 1000 kilos of cocaine from Weslaco Airport to the Wharton Airport. Adan left for Wharton early that morning before the first 1000 kilos were flown to Wharton to clear the way with the local police. The Casas brothers were waiting at hanger 25 which I had rented from the city of Wharton. The Casas brothers and I unloaded the plane in less than three minutes and the Casas brothers loaded the blue van. Although Adan was in Wharton, I had no personal contact with Adan but talked to him at the motel later on the telephone. T. K. had remained in Brownsville in case there was a problem in the valley.

The van was then driven by Enrique Casas to a strip center in Houston near an H. E. B. store. I then called a pager number provided by Tio and received a call back at a pay telephone from a Colombian. Arrangements were then made to deliver the cocaine. Armando Casas and I then followed Enrique Casas to a parking lot where the delivery was to take place. The van was driven away and returned a while later. After the van was returned, the Casas brothers transported me to Hobby Airport in Houston where I

**DEPARTMENT OF PUBLIC SAFETY
State of Texas**

Voluntary Statement

THE STATE OF TEXAS

COUNTY OF BEXAR

Before me, the undersigned authority in and for said County and State, on this the 24th day of September, A. D. 1996, personally appeared Oto Vilmer Chacon, who, after being by me duly sworn, deposes and says:

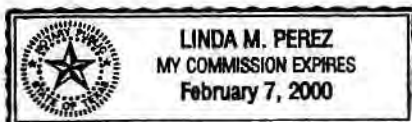
My name is Oto Vilmer Chacon. I am 39 years old and I live at 12914 North Hunters Circle, San Antonio, Texas. I became an informant for Adan Ballesteros in 1989.

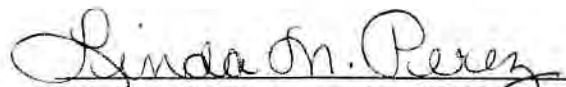
With respect to the Lamas investigation, I did not bring any of the marihuana into the country that was seized in San Benito. Lamas wanted me to transport the marihuana to Houston. I eventually found out where the marihuana was located and passed that information on to Adan. I provided information on Juan Lamas, Ricardo Lamas, Estevan Lamas, and Jose Lamas. I pointed out where Juan Lamas lived to Adan. I had Juan's beeper number and phone number which I gave to Adan. The loads I flew for Juan Lamas came after the first cocaine load and before the 8,700 pounds were seized.

In February 1991, I traveled to Mexico with Onesimo Rios. We met Beto and Pardo in Mexico. I stayed at the Fiesta Americana Hotel. I made the trip to Mexico with Adan's approval. During this period of time, everything was running smooth in Mexico and there were no threats being made to me. Adan also authorized another trip to Mexico which ultimately took me to California and Michigan. I eventually purchased a DC-3 with money provided by Pardo.



Subscribed and sworn to before me, the undersigned authority, on this the 24th day of September, A. D. 1996.




Notary Public in and for BEXAR County,
Texas.

**DEPARTMENT OF PUBLIC SAFETY
State of Texas**

Voluntary Statement

THE STATE OF TEXAS

COUNTY OF BEXAR

Before me, the undersigned authority in and for said County and State, on this the 21th day of November, A. D. 1996 , personally appeared Oto Vilmer Chacon, who, after being by me duly sworn, deposes and says:

My name is Oto Vilmer Chacon. I am 39 years old and I live at 12914 North Hunters Circle, San Antonio, Texas. I became an informant for Adan Ballesteros in 1989.

There was a Colombian female and a child that Bob and I flew in a rented airplane. I rented the airplane from McCreery Aviation in McAllen. Bob and I picked the female and the child up at the Edinburg Airport and took them to Pleasanton. The female was the wife of a Colombian named Enrique who was in jail in Matamoros at the time. Bob and I flew a different female and a child to Wharton due to trouble in Matamoros caused by a new Comandante. This trip was made long before the El Campo trip. Adan knew about this trip, which was made in the Queen Aire, but was not present at Wharton.

I have never used the name Chemo. I did not discuss using the name Chemo with Adan as I had no reason to use that name. I was not scared during my dealings with Rios or Pardo. The only other names that I have used was Checo and Loco. When I made the trip to Mexico with Rios, I obtained permission from Adan as I always did prior to going to Mexico. I also called Adan during these trips to keep him informed.

I was not upset over the handling of the El Campo case. I was never told by T.K. or Adan not to go to Mexico after the El Campo case. I told T. K. and Adan from the beginning that I was going to Mexico after the seizure to set up another deal and to show Pardo that I did not have anything to hide. While I was in Mexico after the El Campo case, I called Luz Marina I believe, to get a message to Bob to have an article placed in the newspaper about the seizure. Pardo did not pay \$ 3,000,000 ransom for me. I was not kidnapped or threatened in any way during this trip to Mexico by Pardo. The Colombians wanted Pardo to hold me but he refused and showed me twenty two tons of cocaine and asked how much of it I wanted to transport. I told him that I wanted to transport it all, five thousand kilos at a time in the DC-3.

I have never heard any stories about an egg being placed in a DEA agent's apartment as a threat. I have never even heard of this practice.


Oto Chacon

During the Lamas investigation, Adan worked on the case for several days and could not locate the marihuana. Adan called me and asked if I could find out where the marihuana was. I told Adan that I would try. I called Lamas and started riding with Lamas. Lamas was checking the various places and finally told me where the marihuana was. I then called Adan and told him where the marihuana was. Adan and I and another officer then drove by one of the locations and I showed Adan where the marihuana was. Adan missed about three thousand pounds of marihuana. Adan and the other officers had heated the deal up so badly that some of the people were trying to take the marihuana back across to Mexico.



Subscribed and sworn to before me, the undersigned authority, on this the 21th day of November, A. D. 1996.




Notary Public in and for BEXAR County,
Texas.

took a flight back to Harlingen on Southwest Airlines. After returning to the valley, I called T. K. and Adan who then authorized the second 1000 kilos of cocaine to be moved to Wharton. The following day Bob and I flew the second 1000 kilos from Weslaco to Wharton where it was loaded into the blue van as before.

The Casas brothers and I drove the van loaded with the 1000 kilos of cocaine into Houston and purchased another van. The second van was purchased because the load had to be separated for two different customers. The Casas brothers and I drove to a vacant lot, in a heavy rain storm, and transferred part of the load to the other van. Five hundred kilos of cocaine were delivered to the customers from the previous day. As the day before, the van was returned after the cocaine had been removed. Tio contacted me three or four days following the delivery of the other 500 kilos and I made contact with the California group via a pager provided by Tio. The Casas brothers and I delivered the second 500 kilos of cocaine to a Luby's parking lot in Houston. The van was left in the parking lot and was picked up by the de Ruiz organization. I then returned to the Sheraton where I had been staying. I then noticed the van parked in the parking lot of the Sheraton. I became concerned and moved to the Westin Galleria Hotel. A couple of days later, Tio provided me with pager numbers to pass on to de Ruiz. I then met de Ruiz and one of de Ruiz's people at the Galleria Mall and provided them with the pager numbers. I was to receive \$ 600,000.00 for transporting the 2000 kilos of cocaine. I remained in Houston waiting to receive money from de Ruiz. The second van was given to de Ruiz to aid in the distribution of the cocaine. After four or five days, I contacted Tio and told Tio that I needed money to stay in Houston. Tio made arrangements for me to meet a woman at a mall who gave me \$ 100,000.00. I did not leave Houston for two weeks. During this time, I was in contact with T. K. and Adan by telephone but had no personal contact with them. Later some of de Ruiz's people delivered a suitcase to me with \$ 300,000.00. When I left Houston, I flew to Mexico. I then returned to Houston at Tio's instructions where I received two additional suitcases with money. I then rented a vehicle and traveled to San Antonio. I never counted the money and did not know how much money was in the suitcases. I kept the money at home until Tio ordered me to return the money to the de Ruiz Organization. I told T. K. and Adan about the money, but the money was never checked by the agents.

I later attended a meeting in Houston with T. K., Adan, Bob and a D. E. A. Agent named Turner. The meeting was held at a government office. Adan's is with ATF and had arranged the meeting at the ATF office. The agents spent one night in Houston. At this meeting, T. K. told me that I had been identified as a participant in a case in Mobile, Alabama involving part of the 2000 kilos that I delivered to Houston. T. K. was worried and made a statement to the effect "I beat cancer and I'm not going to let this get me." T. K. and Adan said that we should deny the load but if the problem did not go away then I should say that the load came in unexpectedly and I tried to call T. K. and Adan but did not have time.

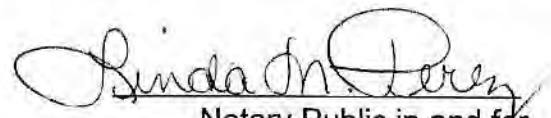
provide at the time. This happened not more than two weeks after I returned from Houston. These were the only payments that I made to Adan.

During 1991, prior to the cocaine loads for Tio, T. K. approached me and told me that T. K. needed to purchase cellular telephones that were secure and incapable of being monitored on a scanner. T. K. told me that the cost of the telephones would be twenty-five hundred dollars. I met T. K. in Brownsville and gave T. K. the twenty-five hundred dollars. T. K. was suppose to purchase one telephone for me, one for Adan, and one for T. K. T. K. told me that it was all right for me to purchase equipment with the money that I was making. I never saw the telephones. This was the only money I ever gave to T. K.

A few months after the 2000 kilos of cocaine was taken to Houston, Tio called me and told me that some of the people who had gotten 500 kilos of the 2000 kilos of cocaine lost 650 kilos of cocaine and claimed to have gotten arrested. Tio wanted me to find out if there was any news story about the incident. I asked T. K. to look and T. K. found an article in the Houston paper. I did not know the name of the person arrested until I was at El Reno. I did know that the person arrested was part of the organization that had gotten 500 kilos of the 2000 kilos of cocaine. I told T. K. and Adan that he was one of the people who had 500 kilos of the 2000 kilos. I also faxed a copy of the article to Adan. One of the vans seized was one of the vans I purchased to deliver the 2000 kilos of cocaine. I believe it was the white one with an orange strip.

 8-6-96

Subscribed and sworn to before me, the undersigned authority, on this the 6 th day of August , A. D. 1996.


Notary Public in and for
BEXAR County, Texas.





DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM

DATE: October 25, 1996

TO: Mike Scott, Chief, Criminal Law Enforcement, HQ

FROM: James W. Brubaker, Captain, Narcotics Service, HQ

SUBJECT: Interview of Special Agent James Tanner, U. S. Customs Service

On February 21, 1995, Captain James W. Brubaker and Inspector Gilbert S. Bruce, Drug Enforcement Administration, Office of Professional Responsibility, conducted an interview of United States Customs Special Agent James Tanner in Mobile, Alabama.

Special Agent Tanner was advised that Captain Brubaker and Inspector Bruce were conducting an investigation into the relationships between Drug Enforcement Administration Special Agent Thomas Solis and Texas Department of Public Safety Lieutenant J. Adan Ballesteros and two former informants (Robert McLean and Oto Vilmer Chacon-Sanchez). Special Agent Tanner was asked how he (Tanner) had become acquainted with Chacon.

Special Agent Tanner stated that he (Tanner) had first become aware of Chacon during an undercover investigation into the cocaine trafficking organization of Javier Pardo. Special Agent Tanner stated that U. S. Customs informants had negotiated with Pardo to transport cocaine into the United States. During the negotiations, the informants were instructed by Pardo to purchase three airplanes.

During January 1992, Special Agent Tanner along with other Customs Agents accompanied the informants to Weslaco, Texas to negotiate the aircraft purchase and to inspect the aircraft. One of the informants met with Chacon, however, Chacon only produced a DC-3 aircraft to be inspected. Special Agent Tanner advised that the trip was coordinated with Customs and DEA from McAllen. Upon return to Mobile from Weslaco, Special Agent Tanner was contacted by Special Agent Solis who advised that Chacon was an informant for Special Agent Solis. During the conversation, it was decided that the informants would not be made aware of each other to be used as a check and balance system to keep the informants honest.

Special Agent Tanner advised that sometime after the Weslaco trip, the informants were advised by Pardo to pick up \$ 120,000.00 from Jose Rolon in Los Angeles. The informants were instructed to pay \$ 50,000.00 to Chacon for the airplanes and to use the remaining \$ 70,000.00 to purchase an FBO on the Gulf Coast. The informants traveled to Los Angeles and picked up the \$ 120,000.00 and then traveled to Weslaco to meet with Chacon. Chacon was paid \$ 50,000.00 and the aircraft (DC-3, Queen Air, and Aero Commander) were picked up and flown to Mobile. During the surveillance of the purchase at the Weslaco airport, Special Agent Solis arrived with another individual in a black corvette and introduced himself (Solis) to Special Agent Tanner. At this time, Special Agent Tanner was unaware that DEA Brownsville was conducting an investigation involving Pardo.

After the return trip to Mobile, Special Agent Tanner contacted Special Agent Solis to report that the Aircraft had arrived safely in Mobile. It was at this time that Special Agent Solis advised Special Agent Tanner of his (Solis) investigation of Pardo involving the controlled delivery of 1000 kilograms of cocaine from Mexico. Special Agent Tanner inquired as to how Special Agent Solis had gotten "country clearance" to bring the cocaine out of Mexico as he (Tanner) had been seeking approval to bring a load out of Mexico for quite some time. Special Agent Tanner advised that Special Agent Solis just laughed and stated that the informant (Chacon) had been kidnapped and made to fly to Mexico to transport the load. Special Agent Solis stated that the case had created a lot of problems with the Embassy in Mexico but that everything had eventually blown over.

Special Agent Tanner advised that the next incident involving Chacon was a trip Chacon made to Mexico in March 1992. Special Agent Tanner stated that he (Tanner) had accompanied two informants to Mexico for a meeting with Pardo. After the meeting with Pardo, the two informants returned for a debriefing and stated that Chacon had walked in on their meeting. Special Agent Tanner advised that when Special Agent Gilberto Gonzalez, DEA Guadalajara, heard the story he (Gonzalez) became extremely angry. Special Agent Gonzalez advised that DEA Brownsville had run a 1000 kilo load of cocaine around the DEA Mexico office. Special Agent Gonzalez also advised that DEA Brownsville was constantly sending Chacon to Mexico to negotiate loads without advising DEA Mexico. Upon return to Mobile, Special Agent Tanner contacted Special Agent Solis and advised him (Solis) what had happened. Special Agent Tanner advised that Special Agent Solis' response was that the problem with Mexico was that they would never let any dope leave the country.

Special Agent Tanner advised that he (Tanner) had no more contact with Chacon during the remainder of his investigation which culminated in June 1992.

Special Agent Tanner advised that on October 28, 1992, he (Tanner) interviewed a defendant named Gonzalo de Ruiz in Mobile. During the interview, de Ruiz advised that Chacon was a primary money transporter for Pardo and that Chacon had delivered 500 kilograms of cocaine to de Ruiz and his associates in Houston, Texas.

The following information was related to Special Agent Tanner by de Ruiz during the interview:

According to de Ruiz, at the instruction of Pardo, de Ruiz and his brother Eduardo were instructed to travel from Los Angeles to Houston to obtain part of a 1000 kilogram shipment of cocaine. On July 7, 1991, de Ruiz and his associates arrived in Houston to receive the cocaine. Contact with Pardo was maintained by de Ruiz who remained in Houston until July 9, 1991. Pardo was having a hard time understanding why the cocaine had not been delivered. (This is the 1055 kilogram seizure made on July 10, 1991. The cocaine was being stored in Weslaco by Chacon and McLean who were awaiting clearance from Special Agent Solis and Lieutenant Ballesteros.) De Ruiz and his associates returned to Los Angeles and were contacted a short while later by Pardo advising that another load of cocaine was to be shipped to Houston.

On August 3, 1991, de Ruiz, Edmundo Uribe and Eduardo Olave traveled back to Houston and checked into the Sheraton Hotel. Pardo provided de Ruiz with a number to reach Chacon to take delivery of 500 kilograms of cocaine. On August 4, 1991, Chacon delivered 500 kilograms of cocaine in a van to a Luby's parking lot in Houston. The cocaine was transported back to the Sheraton Hotel where de Ruiz checked out and relocated to the Guest Quarters.

On August 5, 1991, Chacon contacted de Ruiz and arranged a meeting at the Galleria in Houston. A meeting was held with Chacon, de Ruiz and Olave and Chacon provided three names and telephone numbers of individuals who were to distribute the 500 kilograms of cocaine. On August 6, 1991, de Ruiz was again contacted by Chacon who provided another van to assist in the distribution of the cocaine. The cocaine was distributed by de Ruiz and his associates with the exception of 48 kilograms. On August 7, 1991, de Ruiz rented an apartment to store the 48 kilograms of cocaine. Uribe stayed in the apartment and the rest of the group returned to Los Angeles.

On August 14, 1991, Eduardo Ruiz and others returned to Houston to collect the money for the cocaine. De Ruiz estimated that approximately \$ 4,000,000.00 was collected. According to de Ruiz, \$ 250,000.00 was cut out as their share and the rest was delivered in two or three suitcases to Chacon. The money was delivered on August 15 or August 16, 1991. The following day, de Ruiz and his associates returned to Los Angeles. Sometime between August 22 and August 24, 1991, de Ruiz returned to Houston because Chacon had had a falling out with Pardo. Chacon returned the

suitcases of money to Uribe. Uribe subsequently delivered the money to some Colombians who took the money to Pardo.

Special Agent Tanner stated that it was his (Tanner) understanding from interviewing Chacon that Chacon transported the money to his (Chacon) home in Brownsville and that Chacon informed Special Agent Solis and Lieutenant Ballesteros.

On October 29, 1992, Special Agent Tanner interviewed Uribe who advised that Chacon was Pardo's money man.

Special Agent Tanner advised that following the interviews (date unknown), Special Agent Tanner contacted Special Agent Solis and advised him (Solis) that he (Tanner) believed Chacon was a "dirty C.I.". Special Agent Tanner related Chacon's involvement in the delivery of 500 kilograms of cocaine. Special Agent Tanner advised that Special Agent Solis' first reaction was that Chacon would not do something like that on his (Chacon) own. Special Agent Tanner went on to explain the information received from de Ruiz and Uribe. Special Agent Solis responded by saying that Chacon was really a DPS informant and was not loyal to DEA. Special Agent Solis then inquired if Chacon was going to be indicted. Special Agent Tanner responded by saying that he (Tanner) did not know if Chacon would be indicted.

On January 21, 1993, Special Agent Tanner prepared a memo detailing the information learned from de Ruiz and Uribe which was forwarded to Special Agent Solis. Special Agent Tanner sent the memo to Special Agent Solis because at the time, Special Agent Tanner believed that the Assistant U. S Attorney (AUSA) in Mobile was going to indict Chacon.

On February 20, 1993, Special Agents Solis and Mike Turner traveled to Mobile and interviewed de Ruiz. Special Agent Tanner was present at the interview. Following the interview, Special Agent Solis indicated that Chacon looked "dirty". Special Agent Tanner stated that Special Agent Solis stated that maybe it was possible that Chacon moved the 500 kilograms of cocaine. Special Agent Tanner advised Special Agents Solis and Turner that AUSA Bedwell wanted Chacon indicted in Texas. Special Agent Solis advised that he (Solis) would present the case in Texas. Special Agent Solis later advised Special Agent Tanner that the U. S Attorney's Office in Texas had declined to prosecute Chacon as long as Chacon was continuing to assist on the Antonio Bermudez investigation.

Special Agent Tanner advised that he (Tanner) had no more contact with Special Agent Solis until November 1994. During November 1994, Eduardo Ruiz was extradited to Mobile for prosecution. After the arrival of Ruiz, Special Agent Tanner contacted Special Agent Solis and advised him (Solis) that he (Tanner) needed to interview

Chacon in preparation for trial. Special Agent Solis advised Special Agent Tanner that he (Solis) had not worked with Chacon for quite a while. Special Agent Solis asked Special Agent Tanner how he (Tanner) was going to get Chacon to cooperate. Special Agent Tanner responded by telling Special Agent Solis that Chacon could be indicted if he (Chacon) did not want to cooperate. Special Agent Tanner advised that Special Agent Solis remarked that Special Agent Tanner had promised not to prosecute Chacon. Special Agent Tanner explained to Special Agent Solis that no such promise had been made to Special Agent Solis or anyone else.

Special Agent Tanner contacted Special Agent Solis on December 10, 1994 regarding the interview with Chacon. Special Agent Solis advised that he (Solis) had to get in touch with Lieutenant Ballesteros to make arrangements to talk to Chacon. During the conversation with Special Agent Solis, Special Agent Tanner reminded Special Agent Solis that he (Solis) had the memo written by Special Agent Tanner detailing Chacon's activities. Special Agent Solis stated that he (Solis) had not received the memo. Special Agent Tanner then mailed Special Agent Solis another copy of the memo which was returned as undeliverable. Special Agent Tanner then faxed a copy of the memo to Special Agent Solis. Special Agent Tanner advised that Special Agent Solis did not call Special Agent Tanner to advise that he (Solis) had received the memo. A few days later, Special Agent Tanner called Special Agent Solis and was advised that Special Agent Solis had received the memo. During this conversation, Special Agent Solis remarked that Chacon's only defense would be to say that "we" knew about the 500 kilograms. Special Agent Tanner remembers telling Special Agent Solis that it would look like Chacon was not controlled very well.

Special Agent Tanner contacted Special Agent Solis sometime in January 1995. Special Agent Solis advised that Lieutenant Ballesteros had been to see Chacon and that Chacon had told Lieutenant Ballesteros that Chacon did not import the cocaine but that Chacon did move some money. Special Agent Tanner then told Special Agent Solis that he (Tanner) had to talk with Chacon. Special Agent Tanner then contacted the prisoner locator and was told Chacon was in San Antonio. Special Agent Tanner then called Special Agent Solis and advised that the interview with Chacon was all set up in San Antonio. Special Agent Solis agreed to participate in the interview. Special Agent Tanner then called Chacon to advise Chacon that he (Tanner) and Special Agent Solis would be interviewing Chacon. It was at this time that Special Agent Tanner learned that Chacon was at Big Springs instead of San Antonio. Special Agent Tanner advised that he (Tanner) tried to contact Special Agent Solis of the change but was only able to leave a voice mail message.

On January 11, 1995, Special Agents Tanner and Alex Blas interviewed Chacon at Big Springs at which time Chacon admitted to importing and distributing 2000 kilograms of cocaine under the direction of Special Agent Solis and Lieutenant Ballesteros.

Special Agent Tanner advised that he (Tanner) has had no contact with Special Agent Solis since leaving a voice mail message for Special Agent Solis.

Special Agent Tanner advised that during an interview of Chacon held on January 24, 1995, Chacon told Special Agent Tanner that he (Chacon) and McLean had transported four loads of marihuana under the direction of Lieutenant Ballesteros which were distributed with no resulting seizures. According to Special Agent Tanner, Chacon explained the first load was 400 pounds of marihuana which was flown from Vera Cruz, Mexico to Wharton. Special Agent Tanner stated that Chacon was unsure as to whether Special Agent Solis was privy to the load or if it happened before Chacon started working with Special Agent Solis. The second load was 150 pounds of marihuana which was transported from Harlingen to Wharton. The third load was 300 pounds of marihuana which was transported from Weslaco to Wharton. The fourth load was 500 pounds of marihuana which was transported from Michoacan, Mexico to Matamoros, Mexico. Special Agent Tanner stated that Chacon stated that loads two, three and four were after Lieutenant Ballesteros started working with Special Agent Solis. Chacon stated that these loads were done prior to Chacon working on the Pardo organization.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "James W. Brubaker". The signature is fluid and cursive, with the first name "James" and last name "Brubaker" clearly distinguishable.

James W. Brubaker, Captain
Narcotics Service
Austin, Texas

**DEPARTMENT OF PUBLIC SAFETY
State of Texas**

Voluntary Statement

THE STATE OF TEXAS

COUNTY OF HIDALGO

Before me, the undersigned authority in and for said County and State, on this the 8th day of October, A. D. 1996, personally appeared Robert McLean, who, after being by me duly sworn, deposes and says:

My name is Robert McLean. I am 52 years old and live at 586 Alamo Country Club, Alamo, Texas 78516. I was established as an informant for the DPS on 09/02/87 by Adan Ballesteros. I was an informant for the Drug Enforcement Administration from 07/27/90 until 06/14/93.

I have been asked to provide information concerning the "Tio" investigation. All of my activities during the investigation were done for and with the consent of government agents.

I originally became involved with Oto Chacon during the smuggling of electronics into Mexico. I also had flown approximately thirty-five (35) loads of narcotics for the Antonio Franco/Rick Garza Organization of which Oto was a part. I was about to be arrested when I was approached by the FBI. I offered to cooperate to resolve my legal problems. I began to cooperate and assisted the F.B.I. and D.P.S. in making several cases and ultimately a case against Oto. Oto then became an informant also. I am a pilot and Oto owned several aircraft which Oto and I used on behalf of the F.B.I. and D.P.S. on several investigations. Oto and I, along with Adan, who was our controlling agent, became dissatisfied with the F.B.I. Adan then introduced Oto and I to a D.E.A. Agent named T. K. Solis.

When we began working on "Tio", all negotiations with "Tio" were conducted by Oto. I only saw "Tio" a couple of times at airstrips in Mexico when picking up loads.

The case involving the 1055 kilos of cocaine which Oto and I took to El Campo took a while to put together. Oto negotiated for two to three months before the load was flown from Mexico into the United States. Oto purchased an old Aero Commander in Wharton, Texas which was later traded for another Aero Commander in Norman, Oklahoma. The second Aero Commander was purchased from "Billy and Pat" who deal in Aero Commanders at the Norman, Oklahoma Airport. The Aero Commander purchased had tail number N210JH. On the 1055 kilos, Oto and I flew the Aero Commander (N210JH) to an airstrip at Alvarado, just south of Vera Cruz, Mexico.

The 1055 kilos of cocaine was picked up and flown back to the Weslaco, Texas Airport. There was a meeting the day before the trip and T. K. and Adan provided authorization to make the trip into Mexico. I cannot remember the exact date, but I believe it was in June of 1991. The cocaine was delivered to the Mexican strip by a King Air with Colombian registry and a cousin of Pablo Escobar was at the strip. I talked with Adan during the trip with an aircraft radio that I loaned Adan and Oto used a cellular telephone to talk to Adan. The cocaine was left in the aircraft for at least two days. On the morning that Oto and I delivered the 1055 kilos to El Campo, I received a call from Oto in the morning advising that Oto and I were going to deliver the load to El Campo. I went to the hanger in Weslaco and waited. The cocaine was being stored in the Aero Commander. Oto arrived in a white suburban and the cocaine was unloaded from the aircraft and placed in the suburban. There were no Colombians involved on the U. S. end of the delivery. After loading the cocaine, Oto and I went and met with T. K.. T. K. was driving a Bronco with Mexican license plates. Adan was out of town at the time. There were several agents in the area of the Weslaco Airport. T. K. told Oto and I that T. K. had not yet obtained clearance to move the load. T. K. then told Oto and I "if anyone asks, the cocaine was flown in this morning." After this meeting, Oto and I went in my truck to Andy's for breakfast. After breakfast, Oto and I met with T. K. again. Oto and I wanted to go the back way to El Campo, however, T. K. instructed us to go to Harlingen. Oto and I then traveled to Harlingen where we were met by several law enforcement vehicles. The convoy then proceeded to Riviera where the convoy stayed for approximately one hour. The convoy then proceeded on to El Campo. Oto dropped me off at a truck stop and then delivered the cocaine to a Whataburger or some other fast food restaurant. Oto and a friend of Oto's later picked me up. We then drove to Houston Intercontinental Airport and Oto flew to Mexico and Oto's friend and I drove back to the Weslaco Airport where I had left my truck. As far as I know none of the agents followed Oto and I to the Houston Airport after the delivery in El Campo.

The cocaine was never inspected by T. K. or Adan while being stored at the Weslaco Airport. I had shown T. K. and Adan a map of the exact location of the Mexican airstrip prior to flying to Mexico and Oto kept them informed about all of the negotiations and plans concerning the load. Oto paid me \$ 50,000.00 for the trip but I was not paid anything by D.E.A. or D.P.S.

I flew one load of marihuana for T. K. and Adan into Wharton prior to the 1055 kilo deal. I heard the load was seized at a house but there was some talk that some of the marihuana was unaccounted for by the agents. There was to have been another trip into Mexico to an airstrip located near Puerto Vallarta, however, the trip never happened. Oto and I flew to the airstrip which was located about fifteen (15) miles north of Puerto Vallarta to determine its condition. The flight was made less than a month following the El Campo seizure and was approved by T. K. and Adan. The only other pilot who might have flown a load was a pilot named Rafael that Oto knew.

I don't believe that Rafael was capable of flying a large load. I never heard the story about the kidnapping of Oto by Colombians and us being forced to fly the load in from Mexico.

Oto had contracted with "Tio" to transport 2000 kilos of cocaine in two back to back trips. In order to prepare the aircraft for the trips, I took the Aero Commander to Oklahoma City, Downtown Airpark to have the auto pilot repaired. The repairs were made by the only shop that works on Turbo Commanders. I cannot remember the exact dates that the load was flown in but I do recall calling Adan the day before the flight to confirm that the trip was authorized. Adan told me that the trip had been authorized and was still on for the following day. Oto accompanied me in the Aero Commander to an airstrip north of Puerto Vallarta and we picked up 1000 kilos of cocaine. I flew the 1000 kilos to the Weslaco Airport. Oto talked with Adan by cellular telephone as we neared the Weslaco Airport. T. K. and Adan were parked on a road that runs along the side of the Weslaco Airport. I placed the Aero Commander in the hanger and Oto and I went and met with T. K. and Adan at a park in Weslaco. During the meeting, Oto told T. K. and Adan that "Tio" was ready to do another load the following day. T. K. and Adan told us that they would let us know later in the day about the second load. Oto called me later and told me the second load had been authorized. I called Adan to confirm that authorization had been received. Adan asked me to call him prior to leaving the next morning. After the meeting, Oto and I went back to the hanger and moved the cocaine from the Aero Commander to the Queen Air. At no time did the agents inspect the cocaine.

I called Adan the next morning as instructed and Adan advised us to make the trip and to contact Adan and T. K. upon returning to the Weslaco area. Oto and I then traveled back to the same airstrip near Puerto Vallarta and picked up an additional 1000 kilograms of cocaine. "Tio" was at the strip and wanted me to come back on the following day to pick up a third load. I told "Tio" that I was having pressurization problems with the aircraft which needed to be repaired prior to another load. The return flight was the same as the day before with Oto contacting Adan just before arrival in Weslaco. I placed the plane in the hanger and Oto and I again went and met with T. K. and Adan. At the meeting, T. K. stated that they would have to wait to see if the loads would be flown or taken by vehicle.

After two or three days, Oto and I then flew 1000 kilos of the cocaine to the Wharton Airport. Oto stayed in Wharton and I flew back to the valley. Oto then flew via commercial airline back to the valley later on that night. The next day, Oto and I flew the remaining 1000 kilos of cocaine to Wharton. Adan had gone to Wharton for the transfer of the cocaine. Oto was in contact with Adan by cellular telephone as we approached Wharton. Adan was with a local sergeant.

Oto paid me \$ 70,000.00 for flying the 2000 kilos of cocaine from Mexico. After the 2000 kilos were moved, Oto stayed in the Houston area for about two weeks. I had to wait during this period of time to be paid by Oto. I did not know what happened to the cocaine following the deliveries to Wharton. After the trips to Wharton, T. K. and Adan asked me

if I had noticed any unusual vehicles or anything else during the transfer of the cocaine from Weslaco to Wharton. T. K. and Adan told me that while the cocaine was in the hanger, it had been under surveillance.

As far as I remember, Oto and I left Weslaco at three or four in the morning and made a flight of a little over two hours to Vera Cruz. Oto and I arrived around dawn. On at least one of the flights, I called my home from the plane after Oto had called Venezuela and Veronica. I remember this because I thought how neat it was that you could call Venezuela from the plane. I also recall Oto purchasing four Ground Positioning Satellite units from an electronics company in Florida for \$ 8,000.00. I think the purchase occurred about a week before the two trips. I believe that after the flights, Adan and T. K. were in Adan's two-tone Chevrolet when Adan and T. K. met Oto and I after each flight.

On the back to back deliveries, I left the Weslaco Airport around noon each day and flew to Wharton with the trip taking between forty-five and fifty minutes. To the best of my memory, the plane was off loaded by four men in two suburbans, one of which was gray and one that was blue. At some point after these two loads were flown, I was told by Oto that the cocaine got through. I had thought up until that time the cocaine had been seized and persons arrested. I questioned Adan about the loads and Adan told me the loads were lost in traffic in Houston.

I was not involved in any more flights after the 2000 Kilo deal. I was to fly a load out of Guatemala but that the deal never happened. Oto and I did go to Toluca, Mexico to a ranch and meet an individual with whom Oto was negotiating another deal. I later showed the ranch to T. K. and an agent from the U. S. consulate in Mexico City.

I have never flown money into Mexico. As far as I know, T. K. and Adan never received money from Oto. As far as I know, the only reason T. K. and Adan authorized the distribution of the 2000 kilos of cocaine was to enhance Oto's credibility with "Tio" in an effort to seize a multi-ton load.

Approximately three weeks prior to the meeting of January 26, 1995 with Inspector Bruce and Captain Brubaker, Oto's wife called me trying to get in touch with Adan. I called Adan and advised Adan to call Oto's wife. When I talked to Adan later, I asked Adan if Adan had contacted Oto's wife and Adan said that Adan had not called Oto's wife. After I talked to Inspector Bruce on January 23, 1995, I called Adan and advised Adan that people from Washington, D. C., wanted to talk to me. At that time Adan told me "Just remember, we did one load of coke and one load of grass. Whatever he did, he did on his own." Adan was talking about Oto. I initially did not want to tell Inspector Bruce and Captain Brubaker about the 2000 kilo cocaine deal because I was trying to protect the two agents.

After meeting with Inspector Bruce and Captain Brubaker on January 26, 1995, Adan left a message on my answering machine the night of January 26, 1995, however, I was in Mexico until late and did not talk to Adan. Adan called me the next morning between 8:00 A. M. and 9:00 A. M. and asked who was present at the meeting and what had been asked. I could not remember Captain Brubaker's name but did describe him to Adan and Adan stated that Adan knew who it was. I told Adan that I had discussed the three loads of cocaine. Adan said that there was only one load of cocaine. I told Adan that I had been the pilot that had flown all three loads of cocaine and that I was not going to lie for anyone. Adan then ended the phone call and I have not heard from Adan since.

I flew a number of marihuana loads for Oto when Oto and I were working for Adan and the F. B. I. I do not know what happened to the loads as to whether the loads were busted or allowed to go through. I just flew the loads and did not get involved with the rest of the deal.

While working with Adan and the F. B. I., I flew at least ten loads of marihuana from Mexico to the United States. The F. B. I. Agent was Robert Palacios. For the most part those loads were flown into Weslaco where they stayed for a day or two and then were flown to Wharton.

As far as I remember the loads of marihuana I flew for Oto were as follows: fifteen hundred pounds from a strip around Mexico City in Oto's Queen Air, fifteen hundred pounds from a strip south of Vera Cruz in Oto's Queen Air, fifteen hundred pounds from a strip around Mexico City in Oto's Queen Air, fifteen hundred plus pounds from a strip around Mexico City in Oto's Aero Commander, two or three suitcases from Harlingen to Wharton and an unknown amount from the Mexico City area to a strip about ten miles from Matamoros, Mexico in Oto's Aero Commander. Approximately a week later, we flew this load to Wharton in Oto's Queen Air.

I remember that one of the loads was flown to Wharton around Christmas, year unknown, and no one was there to pick up the marihuana. Oto and I then left the marihuana in the hanger at the Wharton Airport.

There was an instance where I rented a Cessna 182 aircraft from McCreary Aviation in McAllen for the purpose of flying a female and a small child from Edinburg to Pleasanton. Oto told me that they were family of some of the people that Oto was dealing with and they did not have any papers. Oto paid me \$ 1,000.00 for flying them. The police were training in the vicinity of the Edinburg Airport and the passengers were very nervous. Oto had the Queen Aire at the time but there was something wrong with it so I had to rent the other aircraft. On one occasion, I flew two men and one woman to Wharton, Texas. I picked them up in Edinburg and flew them to Wharton, arriving in the dark. This trip was made in the Queen Aire. Both of these trips were made long before the 1055 kilo load and

the 2000 kilo load. Oto did not even have the Aero Commander at this time which was used for those two loads. The back to back flights to move the 2000 kilos from Weslaco to Wharton on July 30 and 31, 1991 did not involve the movement of any people.

Robert A. M. L.

Subscribed and sworn to before me, the undersigned authority, on this the 8th day of October, A. D. 1996.

Margaret Solis
Notary Public in and for
Hidalgo County, Texas.



DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM

DATE: October 25, 1996

TO: Mike Scott, Chief, Criminal Law Enforcement, HQ

FROM: James W. Brubaker, Captain, Narcotics Service, HQ

SUBJECT: Interview of Special Agent James Tanner, U. S. Customs Service

On February 21, 1995, Captain James W. Brubaker and Inspector Gilbert S. Bruce, Drug Enforcement Administration, Office of Professional Responsibility, conducted an interview of United States Customs Special Agent James Tanner in Mobile, Alabama.

Special Agent Tanner was advised that Captain Brubaker and Inspector Bruce were conducting an investigation into the relationships between Drug Enforcement Administration Special Agent Thomas Solis and Texas Department of Public Safety Lieutenant J. Adan Ballesteros and two former informants (Robert McLean and Oto Vilmer Chacon-Sanchez). Special Agent Tanner was asked how he (Tanner) had become acquainted with Chacon.

Special Agent Tanner stated that he (Tanner) had first become aware of Chacon during an undercover investigation into the cocaine trafficking organization of Javier Pardo. Special Agent Tanner stated that U. S. Customs informants had negotiated with Pardo to transport cocaine into the United States. During the negotiations, the informants were instructed by Pardo to purchase three airplanes.

During January 1992, Special Agent Tanner along with other Customs Agents accompanied the informants to Weslaco, Texas to negotiate the aircraft purchase and to inspect the aircraft. One of the informants met with Chacon, however, Chacon only produced a DC-3 aircraft to be inspected. Special Agent Tanner advised that the trip was coordinated with Customs and DEA from McAllen. Upon return to Mobile from Weslaco, Special Agent Tanner was contacted by Special Agent Solis who advised that Chacon was an informant for Special Agent Solis. During the conversation, it was decided that the informants would not be made aware of each other to be used as a check and balance system to keep the informants honest.

Special Agent Tanner advised that sometime after the Weslaco trip, the informants were advised by Pardo to pick up \$ 120,000.00 from Jose Rolon in Los Angeles. The informants were instructed to pay \$ 50,000.00 to Chacon for the airplanes and to use the remaining \$ 70,000.00 to purchase an FBO on the Gulf Coast. The informants traveled to Los Angeles and picked up the \$ 120,000.00 and then traveled to Weslaco to meet with Chacon. Chacon was paid \$ 50,000.00 and the aircraft (DC-3, Queen Air, and Aero Commander) were picked up and flown to Mobile. During the surveillance of the purchase at the Weslaco airport, Special Agent Solis arrived with another individual in a black corvette and introduced himself (Solis) to Special Agent Tanner. At this time, Special Agent Tanner was unaware that DEA Brownsville was conducting an investigation involving Pardo.

After the return trip to Mobile, Special Agent Tanner contacted Special Agent Solis to report that the Aircraft had arrived safely in Mobile. It was at this time that Special Agent Solis advised Special Agent Tanner of his (Solis) investigation of Pardo involving the controlled delivery of 1000 kilograms of cocaine from Mexico. Special Agent Tanner inquired as to how Special Agent Solis had gotten "country clearance" to bring the cocaine out of Mexico as he (Tanner) had been seeking approval to bring a load out of Mexico for quite some time. Special Agent Tanner advised that Special Agent Solis just laughed and stated that the informant (Chacon) had been kidnapped and made to fly to Mexico to transport the load. Special Agent Solis stated that the case had created a lot of problems with the Embassy in Mexico but that everything had eventually blown over.

Special Agent Tanner advised that the next incident involving Chacon was a trip Chacon made to Mexico in March 1992. Special Agent Tanner stated that he (Tanner) had accompanied two informants to Mexico for a meeting with Pardo. After the meeting with Pardo, the two informants returned for a debriefing and stated that Chacon had walked in on their meeting. Special Agent Tanner advised that when Special Agent Gilberto Gonzalez, DEA Guadalajara, heard the story he (Gonzalez) became extremely angry. Special Agent Gonzalez advised that DEA Brownsville had run a 1000 kilo load of cocaine around the DEA Mexico office. Special Agent Gonzalez also advised that DEA Brownsville was constantly sending Chacon to Mexico to negotiate loads without advising DEA Mexico. Upon return to Mobile, Special Agent Tanner contacted Special Agent Solis and advised him (Solis) what had happened. Special Agent Tanner advised that Special Agent Solis' response was that the problem with Mexico was that they would never let any dope leave the country.

Special Agent Tanner advised that he (Tanner) had no more contact with Chacon during the remainder of his investigation which culminated in June 1992.

Special Agent Tanner advised that on October 28, 1992, he (Tanner) interviewed a defendant named Gonzalo de Ruiz in Mobile. During the interview, de Ruiz advised that Chacon was a primary money transporter for Pardo and that Chacon had delivered 500 kilograms of cocaine to de Ruiz and his associates in Houston, Texas.

The following information was related to Special Agent Tanner by de Ruiz during the interview:

According to de Ruiz, at the instruction of Pardo, de Ruiz and his brother Eduardo were instructed to travel from Los Angeles to Houston to obtain part of a 1000 kilogram shipment of cocaine. On July 7, 1991, de Ruiz and his associates arrived in Houston to receive the cocaine. Contact with Pardo was maintained by de Ruiz who remained in Houston until July 9, 1991. Pardo was having a hard time understanding why the cocaine had not been delivered. (This is the 1055 kilogram seizure made on July 10, 1991. The cocaine was being stored in Weslaco by Chacon and McLean who were awaiting clearance from Special Agent Solis and Lieutenant Ballesteros.) De Ruiz and his associates returned to Los Angeles and were contacted a short while later by Pardo advising that another load of cocaine was to be shipped to Houston.

On August 3, 1991, de Ruiz, Edmundo Uribe and Eduardo Olave traveled back to Houston and checked into the Sheraton Hotel. Pardo provided de Ruiz with a number to reach Chacon to take delivery of 500 kilograms of cocaine. On August 4, 1991, Chacon delivered 500 kilograms of cocaine in a van to a Luby's parking lot in Houston. The cocaine was transported back to the Sheraton Hotel where de Ruiz checked out and relocated to the Guest Quarters.

On August 5, 1991, Chacon contacted de Ruiz and arranged a meeting at the Galleria in Houston. A meeting was held with Chacon, de Ruiz and Olave and Chacon provided three names and telephone numbers of individuals who were to distribute the 500 kilograms of cocaine. On August 6, 1991, de Ruiz was again contacted by Chacon who provided another van to assist in the distribution of the cocaine. The cocaine was distributed by de Ruiz and his associates with the exception of 48 kilograms. On August 7, 1991, de Ruiz rented an apartment to store the 48 kilograms of cocaine. Uribe stayed in the apartment and the rest of the group returned to Los Angeles.

On August 14, 1991, Eduardo Ruiz and others returned to Houston to collect the money for the cocaine. De Ruiz estimated that approximately \$ 4,000,000.00 was collected. According to de Ruiz, \$ 250,000.00 was cut out as their share and the rest was delivered in two or three suitcases to Chacon. The money was delivered on August 15 or August 16, 1991. The following day, de Ruiz and his associates returned to Los Angeles. Sometime between August 22 and August 24, 1991, de Ruiz returned to Houston because Chacon had had a falling out with Pardo. Chacon returned the

suitcases of money to Uribe. Uribe subsequently delivered the money to some Colombians who took the money to Pardo.

Special Agent Tanner stated that it was his (Tanner) understanding from interviewing Chacon that Chacon transported the money to his (Chacon) home in Brownsville and that Chacon informed Special Agent Solis and Lieutenant Ballesteros.

On October 29, 1992, Special Agent Tanner interviewed Uribe who advised that Chacon was Pardo's money man.

Special Agent Tanner advised that following the interviews (date unknown), Special Agent Tanner contacted Special Agent Solis and advised him (Solis) that he (Tanner) believed Chacon was a "dirty C.I.". Special Agent Tanner related Chacon's involvement in the delivery of 500 kilograms of cocaine. Special Agent Tanner advised that Special Agent Solis' first reaction was that Chacon would not do something like that on his (Chacon) own. Special Agent Tanner went on to explain the information received from de Ruiz and Uribe. Special Agent Solis responded by saying that Chacon was really a DPS informant and was not loyal to DEA. Special Agent Solis then inquired if Chacon was going to be indicted. Special Agent Tanner responded by saying that he (Tanner) did not know if Chacon would be indicted.

On January 21, 1993, Special Agent Tanner prepared a memo detailing the information learned from de Ruiz and Uribe which was forwarded to Special Agent Solis. Special Agent Tanner sent the memo to Special Agent Solis because at the time, Special Agent Tanner believed that the Assistant U. S Attorney (AUSA) in Mobile was going to indict Chacon.

On February 20, 1993, Special Agents Solis and Mike Turner traveled to Mobile and interviewed de Ruiz. Special Agent Tanner was present at the interview. Following the interview, Special Agent Solis indicated that Chacon looked "dirty". Special Agent Tanner stated that Special Agent Solis stated that maybe it was possible that Chacon moved the 500 kilograms of cocaine. Special Agent Tanner advised Special Agents Solis and Turner that AUSA Bedwell wanted Chacon indicted in Texas. Special Agent Solis advised that he (Solis) would present the case in Texas. Special Agent Solis later advised Special Agent Tanner that the U. S Attorney's Office in Texas had declined to prosecute Chacon as long as Chacon was continuing to assist on the Antonio Bermudez investigation.

Special Agent Tanner advised that he (Tanner) had no more contact with Special Agent Solis until November 1994. During November 1994, Eduardo Ruiz was extradited to Mobile for prosecution. After the arrival of Ruiz, Special Agent Tanner contacted Special Agent Solis and advised him (Solis) that he (Tanner) needed to interview

Chacon in preparation for trial. Special Agent Solis advised Special Agent Tanner that he (Solis) had not worked with Chacon for quite a while. Special Agent Solis asked Special Agent Tanner how he (Tanner) was going to get Chacon to cooperate. Special Agent Tanner responded by telling Special Agent Solis that Chacon could be indicted if he (Chacon) did not want to cooperate. Special Agent Tanner advised that Special Agent Solis remarked that Special Agent Tanner had promised not to prosecute Chacon. Special Agent Tanner explained to Special Agent Solis that no such promise had been made to Special Agent Solis or anyone else.

Special Agent Tanner contacted Special Agent Solis on December 10, 1994 regarding the interview with Chacon. Special Agent Solis advised that he (Solis) had to get in touch with Lieutenant Ballesteros to make arrangements to talk to Chacon. During the conversation with Special Agent Solis, Special Agent Tanner reminded Special Agent Solis that he (Solis) had the memo written by Special Agent Tanner detailing Chacon's activities. Special Agent Solis stated that he (Solis) had not received the memo. Special Agent Tanner then mailed Special Agent Solis another copy of the memo which was returned as undeliverable. Special Agent Tanner then faxed a copy of the memo to Special Agent Solis. Special Agent Tanner advised that Special Agent Solis did not call Special Agent Tanner to advise that he (Solis) had received the memo. A few days later, Special Agent Tanner called Special Agent Solis and was advised that Special Agent Solis had received the memo. During this conversation, Special Agent Solis remarked that Chacon's only defense would be to say that "we" knew about the 500 kilograms. Special Agent Tanner remembers telling Special Agent Solis that it would look like Chacon was not controlled very well.

Special Agent Tanner contacted Special Agent Solis sometime in January 1995. Special Agent Solis advised that Lieutenant Ballesteros had been to see Chacon and that Chacon had told Lieutenant Ballesteros that Chacon did not import the cocaine but that Chacon did move some money. Special Agent Tanner then told Special Agent Solis that he (Tanner) had to talk with Chacon. Special Agent Tanner then contacted the prisoner locator and was told Chacon was in San Antonio. Special Agent Tanner then called Special Agent Solis and advised that the interview with Chacon was all set up in San Antonio. Special Agent Solis agreed to participate in the interview. Special Agent Tanner then called Chacon to advise Chacon that he (Tanner) and Special Agent Solis would be interviewing Chacon. It was at this time that Special Agent Tanner learned that Chacon was at Big Springs instead of San Antonio. Special Agent Tanner advised that he (Tanner) tried to contact Special Agent Solis of the change but was only able to leave a voice mail message.

On January 11, 1995, Special Agents Tanner and Alex Blas interviewed Chacon at Big Springs at which time Chacon admitted to importing and distributing 2000 kilograms of cocaine under the direction of Special Agent Solis and Lieutenant Ballesteros.

Special Agent Tanner advised that he (Tanner) has had no contact with Special Agent Solis since leaving a voice mail message for Special Agent Solis.

Special Agent Tanner advised that during an interview of Chacon held on January 24, 1995, Chacon told Special Agent Tanner that he (Chacon) and McLean had transported four loads of marihuana under the direction of Lieutenant Ballesteros which were distributed with no resulting seizures. According to Special Agent Tanner, Chacon explained the first load was 400 pounds of marihuana which was flown from Vera Cruz, Mexico to Wharton. Special Agent Tanner stated that Chacon was unsure as to whether Special Agent Solis was privy to the load or if it happened before Chacon started working with Special Agent Solis. The second load was 150 pounds of marihuana which was transported from Harlingen to Wharton. The third load was 300 pounds of marihuana which was transported from Weslaco to Wharton. The fourth load was 500 pounds of marihuana which was transported from Michoacan, Mexico to Matamoros, Mexico. Special Agent Tanner stated that Chacon stated that loads two, three and four were after Lieutenant Ballesteros started working with Special Agent Solis. Chacon stated that these loads were done prior to Chacon working on the Pardo organization.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James W. Brubaker".

James W. Brubaker, Captain
Narcotics Service
Austin, Texas



OFFICE OF PROFESSIONAL RESPONSIBILITY
INVESTIGATIVE REPORT

FILE NO: PR-M2-95-0075


COMPLAINT CODE:

FILE TITLE: Thomas Solis/Armando Ramirez

PREPARED BY/DATE: Gilbert S. Bruce, 10/4/95

OTHER INSPECTORS:

REPORT RE: Interview of Robert Turner, 9/20/95


Gilbert S. Bruce, Sr. Inspector 10/4/95
Signature (Inspector) / Date

Robert Palombo, ADCI
Approved (Name & Title) / Date

DETAILS:

1. On September 20, 1995, Senior Inspector Gilbert S. Bruce and Texas Department of Public Safety Captain James Brubaker interviewed Special Agent (S/A) Robert M. Turner. S/A Turner was interviewed at the Embassy Suites Hotel, McAllen, Texas. S/A Turner was interviewed relative to his participation in the Javier Pardo investigation and his relationship with S/A Thomas Solis and Cooperating Individual Otto Chacon.

2. Prior to the interview, Inspector Bruce provided S/A Turner with copies of DEA's Directive to Maintain Confidentiality and Warning and Assurance to Employee Required to provide Information. S/A Turner read and signed both forms as witnessed by Inspector Bruce and Captain Brubaker.

3. The interview of S/A Turner consisted of Inspector Bruce asking several questions. The questions and S/A Turner's answers are enumerated below.

Q: When did you begin work with DEA and what is your present assignment?

A: S/A Turner stated that he started with DEA in June of 1985 and is currently assigned to the Mexico City Country Office.

Q: Are you familiar with a CI by the name of Otto Chacon?

A: S/A Turner advised that he knew Chacon by the name of Checo.

Q: How did you meet Chacon?

A: According to S/A Turner, he was introduced to Chacon early in 1993, in Houston, Texas, by S/A Solis and DPS Investigator Adan Ballesteros. S/A Turner said that the meeting was a debriefing held at the ATF office in Houston. S/A Turner also said that it was his understanding that Chacon was a DPS informant.

Q: When was the debriefing of Chacon in Houston?

A: S/A Turner stated that he and S/A Solis flew directly to Houston from a debriefing in Mobile, Alabama. Following the debriefing in Houston S/A Turner flew directly to Mexico City.

Q: Did you prepare any reports of the debriefing?

A: S/A Turner stated that he did prepare a report of the debriefing either to investigation TA-92-0014 or TA-93-0001.

Q: Are you familiar with a CI by the name of Robert McLean?

A: S/A Turner explained that S/A Solis had brought McLean to Mexico City in late 1992. McLean showed agents the location of the ranch owned by a principal trafficker named Bermudez. S/A Turner said that he had no other dealings with McLean.

Q: Are you familiar with the 1055 kilo controlled delivery involving Chacon and McLean that took place on July 10, 1991?

A: S/A Turner stated that he was not familiar with the delivery at the time but heard about it later.

Q: What did you hear about the controlled delivery?

A: S/A Turner said that he didn't know any of the particulars of the delivery only that there was a conflict between DEA Mexico and DEA Houston because DEA Mexico didn't know what was going on. According to S/A Turner, DEA Guadalajara was working the case at the time.

Q: Did Chacon or McLean work for you in Mexico?

A: S/A Turner stated that only Chacon worked for DEA in Mexico.

Q: What was the nature of Chacon's work in Mexico?

A: According to S/A Turner, Chacon was trying to arrange for a load of cocaine from the Bermudez organization. The plan was to set the load up, take it off, and then extradite Bermudez et al to the United States for prosecution. S/A Turner advised that Chacon was still being run out of Brownsville and was in Mexico from March to August of 1993.

Q: In February 1993 did you go to Mobile, Alabama to interview Gonzolo de Ruiz.

A: S/A Turner said that he did go to Mobile to interview a Customs CI, however he did not remember the CI's name.

Q: Who else was present during the interview?

A: S/A Turner stated that the interview included S/A Solis, Customs S/A James Tanner, and Mobile S/A Stephen Traub.

Q: What were the nature and content of the interview?

A: S/A Turner mentioned that he wrote a DEA-6 on the interview which would be in one of the files mentioned previously. As S/A Turner recalls, the interview covered the dealings of the Customs CI with traffickers in Mexico. S/A Turner said that he remembers a mention of Chacon's involvement in the movement of dope but couldn't recall the specifics. S/A Turner stated that it was his understanding that Chacon was cooperating with S/A Solis and Inv. Ballesteros, in part, due to his involvement with the Mobile defendants.

Q: Did the amount of the Houston delivery come up in Mobile?

A: S/A Turner recalled that it may have been 500 kilos in a van.

Q: Did you mention to S/A Solis and Customs S/A Tanner that you thought Chacon looked dirty?

A: S/A Turner could not remember having said that Chacon "looked dirty." S/A Turner did recall that S/A Solis had a discussion with an AUSA in Mobile about Chacon cooperating rather than being indicted.

Q: Was there a request by the Mobile AUSA for S/A Solis to confer with the U.S. Attorney's Office in Texas regarding the prosecution of Chacon?

A: S/A Turner could not recall any mention by S/A Solis of any discussions with Brownsville AUSA's. S/A Turner offered the fact that DEA managements in Texas and Mexico, as well as S/A Barry Abbott on the TKO desk at headquarters were very much in support of S/A Solis' efforts to keep Chacon cooperating with DEA.

Q: If you were aware that Chacon ran at least 500 kilos around DEA while a CI why would you continue to use him in Mexico?

A: S/A Turner explained that Chacon's involvement in delivering cocaine came out through the Mobile case. S/A Turner stated that it was his impression that the news of Chacon's delivery to Customs' defendants was a surprise to S/A Solis. S/A Turner recalls S/A Solis commenting that, "now. This guy has really got to cooperate."

Q: Was Chacon confronted with the 500-kilo delivery during the debriefing in Houston?

A: S/A Turner said that it was discussed but S/A Solis said he didn't want to say anything to Chacon until he knew whether Chacon would cooperate.

Q: Who decided to continue using Chacon?

A: S/A Turner stated that he didn't have anything to do with the decision to keep Chacon working. DEA supervisors were well aware of the situation and pushed to keep Chacon cooperating.

Q: What was your impression of who controlled Chacon and McLean, DEA Brownsville or DPS?

A: S/A Turner said that it was always his understanding that DPS controlled Chacon. According to S/A Turner, S/A Solis made several comments to him that S/A Solis would have to clear any cooperation of Chacon with Inv. Ballesteros who really controlled the CI.

**DEPARTMENT OF PUBLIC SAFETY
State of Texas**

Voluntary Statement

THE STATE OF TEXAS

COUNTY OF TRAVIS

Before me, the undersigned authority in and for said County and State, on this the 15th day of October, A. D. 1996 , personally appeared Tony Garcia, who, after being by me duly sworn, deposes and says:

My name is Tony Garcia. I am a Narcotics Service Captain and am currently stationed in the Austin District Office. I have approximately 21 years with the Department. I have been asked to provide answers to the following questions by Captain James W. Brubaker in the form of sworn testimony pursuant to an official Department inquiry.

What was the time frame that you worked around and/or supervised Adan Ballesteros?

May 1988 until September 1992.

Are you familiar with the informant Robert McLean?

I knew of him but did not meet him.

Are you familiar with the informant Oto Chacon?

I knew of him but I did not meet him.

Do you recall the circumstances under which Chacon came to work for DPS?

He was arrested during a joint investigation with DPS and FBI, and as a result of the arrest he became an informant for DPS and FBI.

Did you ever meet with McLean and Chacon?

No.

Do you recall the circumstances under which the two informants and Ballesteros came to work with DEA S/A T. K. Solis?

Lt. Goodwin instructed Ballesteros to begin working with DEA due to the need to go into Mexico on the investigations and DEA was the agency that could get country clearance.

Did Ballesteros ever fly with McLean and Chacon?

Yes. Ballesteros would routinely talk about flying with the informants and locating airstrips.

What was the relationships between the two agents and the two informants?

I believed at the time that Adan placed too much reliability on the two informants.

Were you involved in any of the case decisions?

Yes. I supervised one investigation at the "No Le Hace" ranch. I also supervised one attempted undercover investigation that did not materialize.

Were there any meetings with DEA supervisors to discuss the utilization of McLean and Chacon that you attended?

Floyd Goodwin and I talked with ASAC Fred Ball about sending the informants into Mexico on investigations. ASAC Ball assured us that all country clearances had been obtained via RAC Armando Ramirez.

Which agency controlled the activities of the two informants?

It was a shared control between Ballesteros and Solis.

Do you recall the 1991 investigation into the Javier Pardo Organization, AKA "Tio"?

I am not familiar with those particular names but I was familiar with the investigation that involved the El Campo load.

How was the investigation initiated?

Ballesteros briefed Lt. Goodwin that his informant was to bring a load in from Mexico. The investigation dragged on for several months. Ballesteros flew with the informants to locate several airstrips over several months.

Was Captain Bowers kept up to date on the progress of this investigation?

Yes.

Do you recall what the chronology of events leading up to the 1055 kilo seizure in Fort Bend County?

Ballesteros called Lt. Goodwin the night before and indicated the "deal" would go the next day. We left from an area meeting and traveled to Riviera and met up with the surveillance. The surveillance continued to El Campo and the exchange was made. RAC Ramirez wanted to take the load to Houston, however, Lt. Goodwin and myself made the decision to make a traffic stop to keep the informant "cool."

Do you know if Chacon was debriefed after each trip to Mexico?

No, I don't.

When did you first receive information about this particular load?

When Ballesteros called the day before to let us know that the deal was going to happen.

How was the load brought into the country?

It was flown into Weslaco or Progreso.

When was the load brought into the country?

I don't know.

Was utilizing a traffic stop a unanimous decision?

No. Lt. Goodwin and myself decided that the traffic stop was the safest route and we convinced RAC Ramirez. It had been the plan from the beginning to do a traffic stop to keep the informant "cool" and we made DEA stick with the plan.

When were you and the investigators/troopers briefed about the delivery?

When Ballesteros made the call to inform us that the deal was going to go.

When and where did you join the surveillance?

We arrived at Riviera a little before noon.

Did you ever take part in or hear about problems with Mexico over this load?

Not at the time of the load.

Were you aware of the Colombian kidnap story?

No.

Was there any discussion of what the explanation would be in court as to why troopers from McAllen were stopping a vehicle in Fort Bend County?

There was some discussion about defense attorneys questioning the troopers being so far from their duty station and it was decided not to show the duty station but just to show that the stop was made by DPS troopers.

What post seizure meetings or discussions were held?

I don't know. I was only present during the discussion of how the Trooper would write his report and how the cocaine was to be transported to Austin.

What was the next planned course of action in the investigation?

Ballesteros was planning other loads because the informant was still "cool."

Would it have been an unusual practice for Ballesteros to travel to a location alone if a load was due in?

Yes.

What happened with the Pardo investigation?

I don't know.

Were there subsequent investigations that utilized Chacon and McLean?

I don't know.

During 1990 and 1991 were you aware of Ballesteros having any financial problems?

No.

Were you or anyone else you know of contacted by Ballesteros' late ? regarding

No.

Are you aware of Ballesteros' contacting DPS about late ?

No.

Where you aware that Ballesteros purchased a new suburban in 1990?

No.

Do you recall Ballesteros purchasing any computers in 1990?

No.

Were you aware of Ballesteros having a portable aircraft radio given to him by the informants?

No.

During 1991 would it have been possible for McLean and Chacon to fly loads in from Mexico and distribute the loads without DPS or DEA knowing?

Yes.

During the utilization of McLean and Chacon, were there any meetings between you and DEA to discuss the direction of these investigations involving the Cali cartel?

No.

During the utilization of McLean and Chacon, were there any meetings between you and DEA to discuss the requirements of "country clearance?"

Yes. When we met with ASAC Fred Ball as mentioned above. I was familiar with their policies. The concern was to keep the informants "cool" which was difficult when dealing with the MFJP.

Were you ever made aware of the case in Mobile involving Chacon?

Only through this investigation.

Were you ever advised by Ballesteros about an arrest in Houston in December 1991 involving Edmundo Uribe or shown the newspaper article dealing with the arrest?

No.

Did you ever have any problems with Ballesteros accepting supervisory instructions?

No.

Are you aware of Ballesteros having problems accepting supervision?

Yes. Ballesteros was resistant to working any investigations that did not involve these two informants and to working in an undercover capacity.

If so, were these problems discussed with Captain Bowers and were they documented?

There were verbal meetings with Captain Bowers over Ballesteros' resistance to work other investigations that did not involve the two informants.

Was anyone above Captain Bowers made aware of these problems?

No.

Did any of the other supervisors familiar with Ballesteros voice any concerns about his abilities or performance?

It was common knowledge among the district supervisors that Ballesteros did not want to work any investigations that did not involve the two informants and that Ballesteros was resistant to work other cases. Ballesteros appeared to be unable or unwilling to work undercover type cases. His ability to work conspiracy type cases was above average.

Do you know of Ballesteros being authorized to write a report falsely identifying Chacon as "Chemo?"

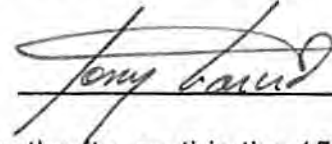
No.

Did you have a conversation with Ballesteros concerning the purchase of a computer by Ballesteros? If yes, what was the content of that conversation.

Yes. Ballesteros stated that he had purchased a computer and had paid cash for it.

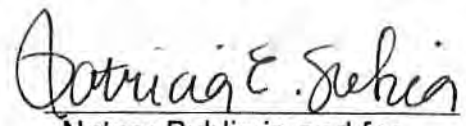
Did you have a conversation with Ballesteros concerning the purchase of a suburban by Ballesteros? If yes, what was the content of that conversation.

Yes. Ballesteros stated that he had purchased a suburban, had put a down payment on the vehicle and financed the rest.



Subscribed and sworn to before me, the undersigned authority, on this the 15th day of October, A. D. 1996.





Notary Public in and for
Travis County, Texas.

**DEPARTMENT OF PUBLIC SAFETY
State of Texas**

Voluntary Statement

THE STATE OF TEXAS

COUNTY OF TRAVIS

Before me, the undersigned authority in and for said County and State, on this the 18th day of September, A. D. 1996 , personally appeared Terry D. Bowers , who, after being by me duly sworn, deposes and says: My name is Terry D. Bowers. I am a retired Narcotics Service Captain and am currently employed by the Department as a Motor Vehicle Inspection Technician. I have approximately 33 years with the Department. I have been asked to provide answers to the following questions by Captain James W. Brubaker in the form of sworn testimony pursuant to an official Department inquiry.

What was the time frame that you were the first line supervisor for Adan Ballesteros?

From December 1986 through September 1990.

What was the time frame that you were the second line supervisor for Adan Ballesteros?

From September 1990 until August 1993.

Are you familiar with the informant Robert McLean?

Yes

Do you recall the circumstances under which McLean began working with DPS?

McLean was recruited as an informant pursuant to a joint case DPS was working with the FBI around September 1987.


Did McLean routinely fly into Mexico while working for the FBI?

Yes. McLean flew into Mexico for the FBI until something happened and the FBI ran into problems for allowing McLean to go into Mexico without "country clearance." Commander Scott requested that we get with DEA in order to obtain "country clearance." Ballesteros then started working with T. K. Solis.

Do you know if the FBI allowed any "loads to go" that were flown in by McLean?

None that I was aware of.





Are you familiar with the informant Oto Chacon?

Yes.

Do you recall the circumstances under which Chacon came to work for DPS?

McLean made a case against Chacon in the Hebbronville area.

How often did you meet with McLean and Chacon?

Both McLean and Chacon came in more than any other informants that we had.

Do you recall the circumstances under which the two informants and Ballesteros came to work with DEA S/A T. K. Solis?

Ballesteros sought out DEA due to the scope of the investigations that Chacon could work involving targets in Mexico. DEA could also facilitate obtaining "country clearance."

What was the relationships between the two agents and the two informants?

As far as I knew it was professional only. However, Ballesteros mentioned in a conversation one time that Chacon or McLean had called him at home. I then counseled Ballesteros concerning relationships with informants. I also instructed whoever the first line supervisor was at the time to counsel with Ballesteros regarding policies governing the use and relationships with informants.

Do you remember the investigation in file numbered investigation N7A-89-080?

I remember the seizure of cocaine.

Do you remember the targets (Juan Lamas, Jose Bernardo Nieto, et al) in this investigation?


No.


Do you remember the circumstances surrounding the execution of two search warrants in file numbered investigation N7A-90-009?

After reviewing the file, I remember the incident.

Did you review and approve the affidavits for the search warrants?

No. Ballesteros was working under the guidance of a senior partner, Joe Garza, who had trained most of the personnel in the valley concerning search warrants and





consents to search. Garza had also taught in numerous in-service schools regarding these same subjects.

Do you know why Ballesteros paid Chacon for the information but there is no mention of information being obtained from an informant in the affidavit?

I do not know. I believe Chacon must have provided the information or payment would not have been made to him. I think Ballesteros must have written the affidavits to try and keep the informant out of court.

Do you remember the targets (Juan Lamas, et al) in this investigation?

No

Do you know why none of the targets were ever arrested and at best some of the mules were arrested?

At the time the cases were made, so many of the targets were involved with each other that no immediate arrests were made in order not to compromise Chacon and the on-going investigations. After leaving first line supervision, I lost touch with the details of the individual cases due to the volume of cases being made in the valley. I depended on the first line supervisor to stay on top of the individual cases.

Do you recall the investigation in file numbered investigation N7A-91-007?

No.

Do you recall the investigation in file numbered investigation N7A-91-009?


No.

Were you ever told that any loads were allowed to "go through" to facilitate the above investigations (N7A-89-080, N7A-91-007, N7A-91-009)?

No. I would not have permitted it.

After reviewing the above files (N7A-89-080, N7A-91-007, N7A-91-009), and based on your approximate 17 years in narcotics enforcement, does it seem suspicious that an organization would continue to deal with an individual if the first load and every other load was seized over a period of 15 months?

Yes. It does lend credence to the allegation that loads were allowed to go through for the Lamas Organization in an effort to bolster Chacon's status and allow Chacon to continue to produce loads for Ballesteros.



dy

Were you involved in the case decisions when Ballesteros began working with DEA?

Ballesteros began to actively work with DEA about the time I was promoted to Captain. The first line supervisor was involved in the day to day dealings of the investigations. I was kept apprised of the progress of the investigations.

Were the decisions made in conjunction with DEA supervisors?

The investigations were joint investigations. There were a few problems at first but they were resolved. The decisions were made from then on by the first line supervisors for DEA and DPS.

If yes, then with whom?

Lt. Floyd Goodwin and S/A Armando Ramirez

Were there any meetings with DEA supervisors to discuss the utilization of McLean and Chacon?

There were meetings with S/A Fred Ball over making arrangements for trips into Mexico. S/A Ball was having problems getting the necessary clearances from Mexico. Mexico wanted control of the investigation and the informant when in Mexico. The Mexico office was working with the MFJP. The particular MFJP officer assigned to the Mexico City Office was on the payroll of the main Colombian target in Mexico who Chacon said he had met on one of the airstrips.

Which agency controlled the activities of the two informants?

T. K. Solis was in control of the informants while they were in Mexico. This was the whole purpose of working jointly with DEA. DPS was in control of the informants while in the U. S. Ballesteros was a stronger personality and could have controlled Solis.

Do you recall the 1991 investigation into the Javier Pardo Organization, AKA "Tio"?

I remember the name.

How often did you meet with Ballesteros relative to discussing the progress of this case involving the Cali cartel?

Lt. Goodwin would handle the day to day aspects of the investigations and then report the progress to me. I do not remember the Cali Cartel being mentioned. I only remember Pardo's name.

dy

How was the investigation initiated?

Chacon provided the information.

What was the chronology of events in the investigation?

I don't recall specifically how the case progressed. Lt. Goodwin handled the day to day direction of the investigation

Do you recall a 1055 kilo seizure of cocaine in El Campo?

Yes. I remember the seizure because the load vehicle used to belong to Bennie Martinez.

When did you first receive information about this particular load?

The morning of the seizure.

What planning took place in anticipation of the load?

I do not remember.

How was the load brought into the country?

I did not know how the load was brought into the country.

From where did the load come from?

I believe it came from Mexico.

Where was the load taken and stored prior to seizure?

I don't know.

Who brought in the load?

I do not remember specifically. McLean usually brought in the loads.

How was the load stored?

I don't know.

DS

Where was it stored?

I don't know.

How long was it stored before delivery?

I don't know.

What type of security or surveillance was maintained on the informants?

Surveillance was limited due to the stature of the violators.

What type of planning was involved for the delivery to El Campo?

I do not remember. Lt. Goodwin handled the supervision of the investigation.

Who was involved in the decision process for the controlled delivery?

Lt. Goodwin

Was El Campo a unanimous choice?

I do not know.

Was it discussed?

I am not aware of any discussions. Generally we had worked in the area before and had good relations with the District Attorney's Office and it was far enough away from the valley to keep Chacon cool.

Did you ever take part in or hear about problems with Mexico over this load?

I knew that DEA had some problems with Mexico but I don't recall it necessarily being on this particular case.

Were you aware of the Colombian kidnap story?

No.

Do you recall the report made by Trooper Martinez?

I don't remember reading the report.

AS

Was there any discussion of what the explanation would be in court as to why troopers from McAllen were stopping a vehicle in Fort Bend County?

It was a routine way of doing cases back then to protect the informant. The situation would have been explained in court and the reasons behind doing it that way.

Did you or anyone to your knowledge ask Trooper Martinez not to put McAllen on his report in the area titled "Stationed?"

Not that I am aware of.

What was the next planned course of action in the investigation?

Chacon was dealing with Pardo to bring in a bigger load of cocaine.

Were subsequent loads planned?

Yes. The investigation was directed at getting information concerning Pardo's activities down in Mexico.

Did they materialize? Why or why not?

No. The only way Chacon could do the deal was not to allow the MFJP officer to know about the load. Mexico would not authorize the load unless that particular MFJP officer was involved.

Do you recall the events outlined on Ballesteros' weekly for the week ending 07/31/91?

No. It was not unusual for Ballesteros or other agents to travel out of town on major investigations.

Was Ballesteros expecting a delivery of a load in Wharton during this week?

I do not remember. If a load had been expected, Ballesteros would not have gone alone.

Would it have been an unusual practice for Ballesteros to travel to a location if a load was due in?

Yes. It would have been unacceptable to go alone if a load was expected.

AS

What happened with the Pardo investigation?

It dragged on and on because of problems with Mexico. There were no problems with DPS's side of the investigation to my knowledge.

Were there subsequent investigations that utilized Chacon and McLean?

I believe the Pardo investigation was the last. Chacon would stay in Mexico for long periods of time.

During 1990 and 1991 were you aware of Ballesteros having any financial problems?

None that I know of. I used to joke with Ballesteros about all of the vehicles parked at his house.

Were you or anyone else you know of contacted by Ballesteros' late ? regarding

No.

Are you aware of Ballesteros' contacting DPS about late ?

No. Just the one phone call from you (Captain Brubaker).

Where you aware that Ballesteros purchased a new suburban in 1990?

Yes. I told Ballesteros to check with Tindall Chevrolet in Boerne.

Do you recall Ballesteros purchasing any computers in 1990?

No.


Were you aware of Ballesteros having a portable aircraft radio given to him by the informants?

I knew Ballesteros used one during the investigation but was not aware that the informants had given it to him.

What happened to the radio?

I don't know.

OK


During 1991 would it have been possible for McLean and Chacon to fly loads in from Mexico and distribute the loads without DPS or DEA knowing?

Yes.

During the utilization of McLean and Chacon, were there any meetings between you and DEA to discuss the direction of these investigations involving the Cali Cartel?

I remember numerous meetings involving Pardo in Mexico. I do not remember any discussions about the Cali Cartel.

During the utilization of McLean and Chacon, were there any meetings between you and DEA to discuss the requirements of "country clearance?"

S/A Ball indicated that all "country clearances" would be handled by DEA. Again, this was the whole purpose of working with DEA.

Were you ever made aware of the case in Mobile involving Chacon?

No.

Were you ever advised by Ballesteros about an arrest in Houston in December 1991 involving Edmundo Uribe?

No.

Did you ever have any problems with Ballesteros accepting supervisory instructions?

Yes. I talked to him about using more tact in dealing with other agents.

Did Lt. Goodwin ever have any problems with Ballesteros accepting supervisory instructions?

Not that I am aware of. Lt. Goodwin indicated Ballesteros was hard headed but there were no serious problems.

Did Ballesteros routinely fly with McLean and Chacon?

Yes. I warned Ballesteros about flying with them and potential problems.

Did Ballesteros ever fly into Mexico with McLean and Chacon?

Not to my knowledge.



**DEPARTMENT OF PUBLIC SAFETY
State of Texas**

Voluntary Statement

THE STATE OF TEXAS

COUNTY OF TRAVIS

Before me, the undersigned authority in and for said County and State, on this the 30 day of September, A. D. 1996 , personally appeared Floyd Goodwin, who, after being by me duly sworn, deposes and says:

My name is Floyd Goodwin. I am a Narcotics Service Captain and am currently stationed in Austin Headquarters. I have approximately 23 years with the Department. I have been asked to provide answers to the following questions by Captain James W. Brubaker in the form of sworn testimony pursuant to an official Department inquiry.

What was the time frame that you were the first line supervisor for Adan Ballesteros?

I was Ballesteros' supervisor from December 1990 until December 1991.

Are you familiar with the informant Robert McLean?

Yes.

Do you recall the circumstances under which McLean began working with DPS?

McLean became an informant after being arrested in a joint FBI/DPS investigation.

Are you familiar with the informant Oto Chacon?

Yes.

Do you recall the circumstances under which Chacon came to work for DPS?

Chacon became an informant after being arrested in a "no dope" conspiracy investigation that McLean helped initiate.

How often did you meet with McLean and Chacon?

I met with McLean and Chacon on a regular basis.

Do you recall the circumstances under which the two informants and Ballesteros came to work with DEA S/A T. K. Solis?

After sitting in on several debriefings with McLean and Chacon, I advised Ballesteros that any investigations involving Mexico would have to be worked with DEA. It is my understanding that the DEA Mexico Country Attaché had to clear "deals" in Mexico.

Did Ballesteros ever fly with McLean and Chacon?

Ballesteros flew with McLean and Chacon quite often to look at landing locations. Chacon kept three airplanes at the Weslaco Airport. I believe one of the planes belonged to McLean and I believe the other two were purchased with traffickers money. There was a DC-3, a Queen Aire and an Aero Commander. I do not know of any occasions when Ballesteros flew into Mexico. If he did so, he did so without my permission.

What was the relationships between the two agents and the two informants?

I cannot answer for T. K. Solis. I believed that the relationship that Ballesteros had with the informants was too close and he depended too heavily on the veracity of their information without adequate corroboration. During my supervision of Ballesteros, I was under the impression that Ballesteros could not and would not make a case without these two informants.

Were you involved in the case decisions?

I provided input to the investigations based on the information that Ballesteros was providing me.

Were the decisions made in conjunction with DEA supervisors?

I never met with T. K. Solis and Ballesteros together to discuss the investigations. I met with Fred Ball when we were trying to obtain country clearance.

Were there any meetings with DEA supervisors to discuss the utilization of McLean and Chacon?

There was an initial meeting to discuss the procedures required to obtain country clearance for the informants to travel to Mexico.

Which agency controlled the activities of the two informants?

Ballesteros was the primary control agent for the two informants and Solis was the secondary.

Do you recall the 1991 investigation into the Javier Pardo Organization, AKA "Tio"?

Yes.

How was the investigation initiated?

Ballesteros advised me that Chacon was into someone in the Cartel that was capable of doing large loads. I interviewed Chacon and he told me about Pardo. I then instructed Ballesteros to get with DEA.

How often did you meet with Ballesteros relative to discussing the progress of this case involving the Cali cartel?

As often as Ballesteros had information on the case.

Was Captain Bowers kept up to date on the progress of this investigation?

Yes.

What was the chronology of events in the investigation?

The investigation "hummed" February 1991 until July 1991 while Chacon negotiated with Pardo in Mexico.

Was Chacon debriefed after each trip to Mexico?

I believe that he was. The arrangement was for Solis to do all of the reporting. I do not recall seeing any reports from Ballesteros on the debriefings.

Do you recall a 1055 kilo seizure of cocaine in El Campo?

Yes.

When did you first receive information about this particular load?

I first received information on July 7, 1991. Ballesteros contacted me and advised that the deal was ready to go. I believe Ballesteros was in Austin for school and called me from Austin. I did not hear anything else until the load was in on July 10, 1991. We were having a tri-area meeting at the King Ranch when I was notified the load was ready. I do not recall for sure if the call came in on the night of July 9, 1991 or the morning of July 10, 1991. I believe the call came in on July 10, 1991.

What planning took place in anticipation of the load?

The plan from the start was to let the load go north and take it down.

Did you have any formal discussions concerning the investigation of the 1055 kilos of cocaine?

Ballesteros was in Austin. Ballesteros called me to let me know that the load was in and that he wanted to take it down on the road to protect Chacon. I met with S/A Ramirez at El Campo and the decision was made to stop the vehicle with a marked unit.

How was the load brought into the country?

I believe that a Colombian pilot brought the load into Mexico and Chacon and McLean flew into Mexico and flew the load back to Weslaco.

When was the load brought into the country?

As far as I know, the load was brought in on July 10, 1991.

What type of planning was involved for the delivery to El Campo?

The location was worked out among the two informants and the violators.

Who was involved in the decision process for the controlled delivery?

I made the decision to take the load down in a traffic stop to try and keep Chacon "cool."

Was utilizing a traffic stop a unanimous decision?

No.

Was it discussed?

Yes. RAC Armando Ramirez wanted to take the load all the way to Houston.

When did you brief your investigators/troopers about the delivery?

Prior to leaving the area meeting, I relayed the available information to the officers and then we left to join the surveillance. I passed along updated information as it became available via radio enroute to join the surveillance.

When and where did you join the surveillance?

I joined the surveillance around Riviera on the afternoon of July 10, 1991. At the time of my arrival, Ramirez and Solis were running the surveillance.

What were you told by the leader of the surveillance when you arrived?

I was told the plan was to make the exchange in El Campo.

Did you ever take part in or hear about problems with Mexico over this load?

It was my understanding that DEA had clearance. They were in charge of the load when I arrived.

Were you aware of the Colombian kidnap story?

No.

Who made the decision to make a traffic stop?

I did in order to keep Chacon cool.

When was that decision made?

The plan from the start was to make a traffic stop.

Do you recall the report made by Trooper Martinez?

Yes.

Was there any discussion of what the explanation would be in court as to why troopers from McAllen were stopping a vehicle in Fort Bend County?

I knew it was going to be a problem from the start. Ballesteros and I talked to a female Assistant District Attorney at the end of the week of July 10, 1991 or the beginning of the next week. She made the decision to keep it as a traffic stop. The defense attorneys were attempting to gain discovery on the arrest almost immediately. I do not remember the Assistant District Attorney's name but I believe Sergeant David Davis was dating her.

Did you or anyone to your knowledge ask Trooper Martinez not to put McAllen on his report in the area titled "Stationed?"

I instructed Trooper Martinez to write the case up just as it happened but not to put any reference to his duty station.

What post seizure meetings or discussions were held?

I met with Ballesteros, however, I do not recall meeting with DEA.

What was the next planned course of action in the investigation?

In discussions with ASAC Fred Ball, there seemed to be problems in the embassy in Mexico with getting country clearances. I saw the DEA reports of the seizure. I instructed Ballesteros to get copies of the DEA reports and make them attachments to his reports.

Were subsequent loads planned?

Yes.

What was the next planned action after the seizure in El Campo?

The plan was to get Pardo to come to the U. S. and look at some different airstrips and arrest him.

As Ballesteros supervisor, did you approve any out of town travel?

Yes, based on the information provided by Ballesteros as to the purpose of the trips.

Do you recall the events outlined on the weekly for the week of July 31, 1991?

Yes, based on information provided to me by Ballesteros at the time.

Do you recall why Ballesteros went to Corpus Christi and Wharton?

Yes. Ballesteros was going to look at possible landing sites.

Was Ballesteros expecting a delivery of a load in Wharton?

I do not recall Ballesteros telling me that he was expecting another load in Wharton. Ballesteros traveled to the area to look for additional landing sites.

Would it have been an unusual practice for Ballesteros to travel to a location alone if a load was due in?

Absolutely.

Did you meet with or discuss Ballesteros' trip with him when he returned?

Yes, and as I recall, Ballesteros advised that he had had trouble with local authorities as to guaranteeing security at the airstrip in Wharton when and if a controlled delivery was made in the future.

What happened with the Pardo investigation?

As far as I know, it was still ongoing when I transferred in December of 1991.

Were there subsequent investigations that utilized Chacon and McLean?

I don't recall.

During 1990 and 1991 were you aware of Ballesteros having any financial problems?

No

Were you or anyone else you know of contacted by Ballesteros' regarding late ?

No, I don't think that I was. I don't recall hearing anything in reference to an . In fact, I didn't know Adan had .

Are you aware of Ballesteros' contacting DPS about late ?

I am now, but I wasn't at the time I attempted to supervise Adan.

Where you aware that Ballesteros purchased a new suburban in 1990?

No

Do you recall Ballesteros purchasing any computers in 1990?

No

Were you aware of Ballesteros having a portable aircraft radio given to him by the informants? What happened to the radio?

I don't recall.

During 1991 would it have been possible for McLean and Chacon to fly loads in from Mexico and distribute the loads without DPS or DEA knowing? Why?

Yes. Given the information now available, it's not clear who was controlling who when it came to the relationship between Adan and the two informants.

During the utilization of McLean and Chacon, were there any meetings between you and DEA to discuss the direction of these investigations involving the Cali cartel?

No, not that I recall.

During the utilization of McLean and Chacon, were there any meetings between you and DEA to discuss the requirements of "country clearance?"

Yes

Were you ever made aware of the case in Mobile involving Chacon?

Yes, in July 1995.

Were you ever advised by Ballesteros about an arrest in Houston in December 1991 involving Edmundo Uribe or shown the newspaper article dealing with the arrest?

No.

Did you ever have any problems with Ballesteros accepting supervisory instructions? If so, were these problems discussed with Captain Bowers and were they documented?

Yes. During my tenure in McAllen, as I attempted to supervise Ballesteros, I had several conversations with Captain Bowers reference Ballesteros inability to initiate any cases without the use of the aforementioned informants. On one particular occasion a rather heated discussion between myself and Bowers occurred. I had tried to get Adan to join the rest of the area along with some of Lieutenant Garcia's area in working undercover in Falfurrias. Adan initially refused and went to Captain Bowers. Captain Bowers told Adan to participate and go along with me as I would be transferring before long. Ballesteros never participated. There was always some excuse why he couldn't go. Adan approached me after his meeting with Bowers and was visibly angry. I got the impression that he thought he was too good to work the streets. Adan said he would participate but, to my knowledge he never did. No written documentation exists as far as I know.

Was anyone above Captain Bowers made aware of these problems?

Not to my knowledge.

Did any of the other supervisors familiar with Ballesteros voice any concerns about his abilities or performance?

Yes.

Was any of this information documented?

Not to my knowledge.

Did you authorize Ballesteros to write a report falsely identifying Chacon as "Chemo?"

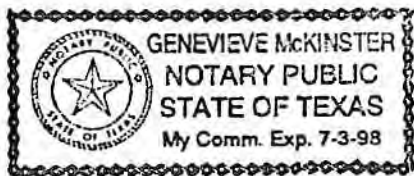
Absolutely not.

After reviewing the reports in file numbered investigation, do you know why Ballesteros wrote these reports with false entries?

No. I can only speculate that because authorization had not been received from DEA for "Country Clearance" regarding the informants working in Mexico, Adan took it upon himself to send the informants to Mexico and use alias names in the "Chemo" report until clearance could be obtained.



Subscribed and sworn to before me, the undersigned authority, on this the 30 day of September, A. D. 1996.



Genevieve McKinster
Notary Public in and for
Travis County, Texas.

**DEPARTMENT OF PUBLIC SAFETY
State of Texas**

Voluntary Statement

THE STATE OF TEXAS

COUNTY OF WHARTON

Before me, the undersigned authority in and for said County and State, on this the 9th day of October, A. D.1996 , personally appeared Larry Hensley , who, after being by me duly sworn, deposes and says:

My name is Larry Hensley. I am 43 years old. I am currently employed as an Investigator for the 329th Judicial District Attorney's Office in Wharton, Texas.

I am giving this statement for the purpose of providing information on investigations conducted in the Wharton area by Adan Ballesteros.

There were several investigations conducted in the Wharton area by Ballesteros, numbering approximately a dozen, that I assisted in coordinating through the Wharton Airport with Ballesteros between 1989 and the latter half of 1991. During this time period, I was a detective with the Wharton County Sheriff's Department.

I am unable to recall the specific dates that the investigations were done. When I was asked by Inspector Mrock and Captain Brubaker if there were any incidents that stuck out in my mind, I recalled that on one of the investigations Ballesteros requested that I keep all local police away from the Wharton Airport during the investigation. The Wharton Airport is under the control of the City of Wharton. I did as Ballesteros requested and personally contacted the local police and made sure the local police remained away from the airport. It was the only time Ballesteros ever made that type of request during any of the investigations. To the best of my recollection, this incident happened during the last investigation that I ever coordinated for Ballesteros at the Wharton Airport. As far as I remember, my assistance to Ballesteros ended in the latter part of 1991 when the investigations stopped.

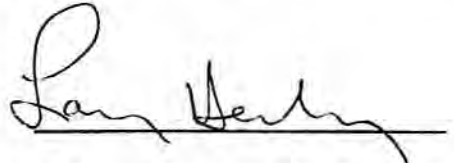
I never prepared any investigative reports concerning the investigations nor were there any activity reports, radio logs or any other documents that I know of that would help me remember specific dates. I do not know of anyone else who could provide information about the investigations as I was the only one who worked on the investigations with Ballesteros. As far as I remember, the incident where Ballesteros requested that I keep the local police away from the airport was the only time Ballesteros ever spent the night in Wharton.

I never saw any of the contraband nor did I ask nor was I told by Ballesteros what happened on the investigations after they left Wharton. I also never heard from any other sources what the disposition of the investigations were. I also do not know T. K. Solis.

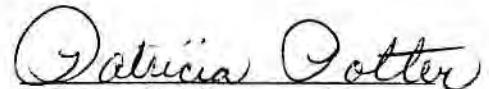
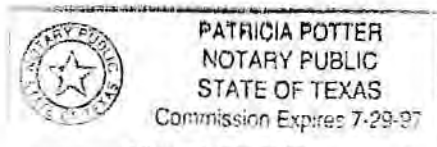
I do not know Oto Chacon. Ballesteros did introduce me to an individual identified as an informant for the investigations. The informant was a pilot who had begun cooperating with authorities after being arrested. The pilot was a white male about forty years of age. Ballesteros had flown into the Wharton Airport on several occasions with the informant.

I was never told by Ballesteros or anyone else why the investigations ceased. I never had any problems with Ballesteros while working the cases.

During the time that I assisted Ballesteros, I never saw any of the contraband or any of the violators. I never actively participated in the investigations. I do not recall any incidents where Ballesteros traveled to Wharton to apologize to me for a deal going and the officers not calling me. I recall Ballesteros flying to Wharton on a couple of occasions with the informant that was the pilot of the Aero Commander. I do not remember any incident where a woman and a small child were flown into Wharton by the informant.



Subscribed and sworn to before me, the undersigned authority, on this the 9th day of October, A. D. 1996.



Notary Public in and for
Wharton County, Texas.

**DEPARTMENT OF PUBLIC SAFETY
State of Texas**

Voluntary Statement

THE STATE OF TEXAS

COUNTY OF TRAVIS

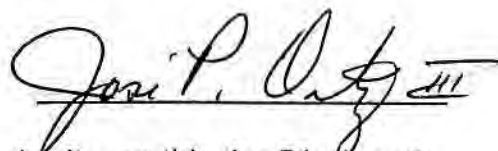
Before me, the undersigned authority in and for said County and State, on this the 5th day of December, A. D. 1996, personally appeared Jose Ortiz, who, after being by me duly sworn, deposes and says:

My name is Jose Ortiz. I am a Narcotics Service Sergeant/Investigator and am currently stationed in McAllen. I have approximately 7 years with the Department. I have been asked to provide this statement by Captain James W. Brubaker pursuant to an official Department inquiry.

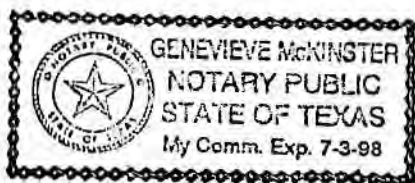
I was assigned to update file number N7A-89-080 after Lieutenant Ballesteros left McAllen. On 12/02/93, I personally contacted Assistant United States Attorney Melissa Annis concerning the status of this case. AUSA Annis advised that Federal indictments were still being considered against the defendants in this file. AUSA Annis requested that all evidence be retained pending a decision to prosecute by AUSA Annis.

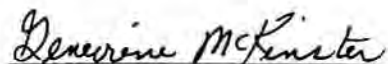
On 06/20/94, I again updated the file after contacting AUSA Annis. AUSA Annis advised that her office still had an open file on the defendants and requested that DPS retain custody of all evidence. AUSA Annis advised that the bulk of the evidence could be destroyed as long as representative samples and photographs were retained. AUSA Annis also advised that a letter authorizing the destruction of the bulk of the evidence would be forthcoming.

On 03/15/95, I again updated this file by contacting AUSA Annis. A copy of the letter from AUSA Annis was attached to this update authorizing the destruction of the evidence in this file.



Subscribed and sworn to before me, the undersigned authority, on this the 5th day of December, A. D. 1996.




Notary Public in and for
Travis County, Texas.

**DEPARTMENT OF PUBLIC SAFETY
State of Texas**

Voluntary Statement

THE STATE OF TEXAS

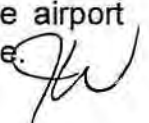
COUNTY OF TRAVIS

Before me, the undersigned authority in and for said County and State, on this the 16th day of September, A. D. 1996, personally appeared James Weaver, who, after being by me duly sworn, deposes and says: My name is James Weaver. I am a Sergeant/Investigator in the Narcotics Service stationed in Wichita Falls, Texas. I have been employed by the Department for approximately 21 years.

I first met Lieutenant Ballesteros when we were both stationed in the Rio Grande Valley. I was stationed in Harlingen and Lieutenant Ballesteros was stationed in McAllen. We were both CLE Troopers, at that time. After leaving the valley, I had no further formal contact with Lieutenant Ballesteros until December 1994. During the second week of December 1994, I was instructed by Lieutenant Esquivel to go to the Big Spring Airport and pick up Lieutenant Ballesteros. I was then to take Lieutenant Ballesteros to the Federal Correctional Institute located at Big Springs to interview a prisoner.

I picked up Lieutenant Ballesteros around twelve noon. We exchanged greetings and Lieutenant Ballesteros indicated that he did not remember meeting me in the valley. Lieutenant Ballesteros appeared to be on edge and there was very little conversation between the two of us. The situation was very uncomfortable and at the time all I wanted to do was to get through with the assignment and put Lieutenant Ballesteros back on the plane. While en route to the prison, Lieutenant Ballesteros told me that I could sit in on the interview if I wanted to but that the prisoner spoke predominately Spanish. I do not speak Spanish so I decided not to sit in on the interview.

Once at the prison, I exchanged greetings with the prisoner and immediately left the room and did not participate in the interview. The interview took thirty to forty minutes. When Lieutenant Ballesteros exited the interview, he was much more relaxed and in a better mood. In light of the change in Lieutenant Ballesteros' mood, I decided to have lunch with Lieutenant Ballesteros. I took Lieutenant Ballesteros back to the airport around 2:00 P. M. Lieutenant Ballesteros never discussed the interview with me.



My next encounter with Lieutenant Ballesteros was sometime in May 1995 during an investigation. During that meeting, Lieutenant Ballesteros and I discussed the death of a Trooper from the Big Spring area but nothing was said that related to the interview in Big Spring.

James S. Usher

Subscribed and sworn to before me, the undersigned authority, on this the 16th day of September, A. D. 1996.



Patricia H. Guba
Notary Public in and for
Travis County, Texas.

**DEPARTMENT OF PUBLIC SAFETY
State of Texas**

Voluntary Statement

THE STATE OF TEXAS

COUNTY OF TRAVIS

Before me, the undersigned authority in and for said County and State, on this the 13th day of September, A. D. 1996, personally appeared Urbino Martinez, who, after being by me duly sworn, deposes and says: My name is Urbino Martinez. I am a Sergeant/Investigator with the Texas Department of Public Safety Narcotics Service stationed in Alice, Texas. I have been employed by the Department for approximately 17 years. I have been asked by Captain James W. Brubaker to provide answers to the following questions in the form of sworn testimony pursuant to an official Department investigation.

After reviewing file numbered investigation N7A-91-030, do you recall the investigation?

Yes, I recall the investigation.

How did you become involved in this investigation?

On July 9, 1991, there was a District meeting being held at the Dresser Atlas Hunting Camp on the King Ranch. I was approached by my supervisor, Lt. Floyd Goodwin who advised me that we would be going to the Wharton Area on an investigation. All I was told at this time was that it was Adan Ballesteros' case. I requested that Ruben Salinas be allowed to ride with me as I did not have a partner and did not want to go alone. Ballesteros was not present at the meeting.

Were you fully briefed on the investigation and told what your role was to be?

I was not told what my role was to be until I was advised on the radio that I would be conducting a traffic stop. There was no formal briefing at the Dresser Atlas Camp nor when we reached Riviera. Trooper Salinas and myself traveled from the hunting camp to Riviera and then traveled in a big convoy with other agents from a federal agency. I am not sure if it was the FBI or DEA. In Riviera, I was told that a white suburban was being driven by a friendly called "six" and we were to follow it to the Wharton area. It was not unusual not to receive detailed information about Ballesteros' investigations.

Describe your participation in the investigation.

The suburban was taken to a Burger King in El Campo and turned over to another driver.

JP

The suburban then left and surveillance was continued. I was then told by Lt. Goodwin to make a traffic stop on the vehicle. I then made the traffic stop. There was one driver named Alberto Pizarro. I obtained a written consent. The cocaine was in the back of the suburban. The seats had been removed and the cocaine was concealed under a blanket. Pizarro was transported to the Fort Bend County Jail in Richmond.

Do you know the names of the other persons who participated in the investigation?

I know that Lt. Goodwin and Lt. Garcia were along on the convoy. I am not sure if Ballesteros was there or not. These are the only persons I recall for sure being along on the investigation.

What specific actions did you take during the investigation?

I made the traffic stop, arrested Pizarro, and seized the cocaine. The cocaine was transported to Austin later that evening by myself, Trooper Salinas, Lt. Garcia and Lt. Goodwin.

Who instructed you to take these actions?

Lt. Goodwin provided all the instructions during the investigation.

Why was the report written as a routine traffic stop?

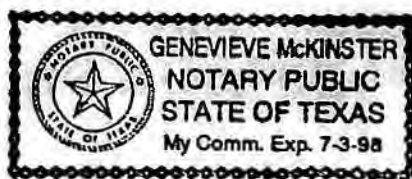
Lt. Goodwin or Adan Ballesteros instructed me to write the case up as a routine traffic stop.

What would have happened if the case would have gone to court and you were asked to explain your presence so far from your duty station?

I was told that if it came up I was to tell the truth. Either Lt. Goodwin or Adan Ballesteros advised that they would address the issue of my duty station being taken off the report so that it would not be obvious that I was away from my duty station.

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Subscribed and sworn to before me, the undersigned authority, on this the 13th day of September, A. D. 1996.



Genevieve McLenister
Notary Public in and for
Trower County, Texas.

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD. - BOX 4087 - AUSTIN, TEXAS 78773-0001
512 / 424-2000



DUDLEY M. THOMAS
DIRECTOR

THOMAS A. DAVIS, JR.
ASST. DIRECTOR

October 20, 1997

MAD
10-17-97



COMMISSION
JAMES B. FRANCIS, JR.
CHAIRMAN
RONALD D. KRIST
ROBERT B. HOLT
COMMISSIONERS

Lieutenant Jaime Adan Ballesteros
Narcotics Service
Department of Public Safety
9000 IH-35
Austin, Texas 78753

Dear Lieutenant Ballesteros:

This is your official notification of my decision that you should be discharged from the Texas Department of Public Safety and my reasons therefore. Five counts which set out different violations of Department policy you have committed have all been sustained against you, except for Count 1A. The details of each of these counts is set out below.

COUNT 1A

It is alleged that while working in the Narcotics Service as a Sergeant-Investigator you permitted the importation of approximately 1,350 pounds of marijuana over the course of four (4) separate occasions by the LAMAS organization. The count alleges that you knew of the importation of the marijuana but failed to prevent it. These events occurred between the latter part of 1990 and the latter part of 1992. This count was not sustained against you.

COUNT 1B

It is alleged that you failed to utilize established techniques and methods, consistent with departmental procedures, in conducting the investigation and preparing the necessary investigative reports and as a result LAMAS and other major traffickers associated with LAMAS were never arrested or prosecuted pursuant to this investigation. Your investigative techniques were inconsistent with and contrary to established departmental procedures.

This conduct if true, violates the following DPS rules and regulations:

DPS General Manual, Chapter 5, Section 05.06.04, Competency to Perform Duty

All members of the department shall maintain sufficient competency to properly perform their duties and assume the responsibilities of the positions. Duties shall be performed in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the department. Incompetence may be demonstrated by an unwillingness or inability to perform assigned tasks; failure to conform to work standards established for rank, grade, or position; a failure to take appropriate action on the occasion of a crime, disorder, or other condition

OCT-22-97 WED 10:31

CARL A. PARKER

FAX NO. 5124959107

P. 02/02

copy
sent
10-27-97
r42

CARLA A. PARKER, P.C.
CHRIS PARKS, P.C.
MYRA L. GREGORY
ALLEN PARKER
DONALD W. DICKSON II**

** ADMITTED IN TEXAS AND NEW JERSEY

PARKER & PARKS, LLP

ATTORNEYS AT LAW

1800 GUADALUPE 2ND FLOOR
AUSTIN • TEXAS • 78701-1255
TELEPHONE: (512) 474-2304
FACSIMILE: (512) 495-9107

copy Legal
Plaza Square
Port Arthur, Texas 77642-5515
Telephone: (409) 985-5000
Mid County: (409) 722-8111
Facsimile: (409) 985-2835

OIL IKE HARRIS
Of Counsel

October 22, 1997

RECEIVED

OCT 23 1997

CRIMINAL LAW
ENFORCEMENT

RECEIVED

OCT 22 1997

DIRECTOR
DEPT. OF PUBLIC SAFETY

Via Facsimile to 424-5708 & Regular Mail

Colonel Dudley M. Thomas, Director
Texas Department of Public Safety
5805 North Lamar Boulevard
Post Office Box 4087
Austin, Texas 78773-0001

**Re: Jaime Adan Ballesteros, Lieutenant, Narcotics Service, CLE Division
Complaint IA C96-076**

Dear Colonel Thomas:

Please be advised of our representation of Lieutenant Jaime Adan Ballesteros, Narcotics Service, Criminal Law Enforcement Division. Lieutenant Ballesteros and the undersigned counsel respectfully request the opportunity to meet with you to discuss your preliminary determination that Lieutenant Ballesteros should be discharged from his employment by the Department of Public Safety.

I have today requested copies of the investigative file concerning this matter and of our client's personnel file, and would appreciate your affording sufficient time for this office to receive and review these documents before scheduling our meeting.

Thanking you for your courtesy in this regard, I remain,

Very truly yours,

PARKER & PARKS, L. L. P.

Donald W. Dickson II

Donald W. Dickson II, Esq.

CAP/DWD:eg

cc: Lieutenant Ballesteros

11/6?

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD. - BOX 4087 - AUSTIN, TEXAS 78773-0001
512/424-2000



DUDLEY M. THOMAS
DIRECTOR

THOMAS A. DAVIS, JR.
ASST. DIRECTOR



COMMISSION
JAMES B. FRANCIS, JR.
CHAIRMAN
RONALD D. KRIST
ROBERT B. HOLT
COMMISSIONERS

October 29, 1997

RECEIVED

OCT 29 1997

CRIMINAL LAW
ENFORCEMENT

Mr. Donald W. Dickson, II
% Parker & Parks, LLP
1800 Guadalupe, 2nd Floor
Austin, Texas 78701-1235

RE: Jaime Adan Ballesteros

Dear Mr. Dickson:

This is to confirm my telephone conversation of yesterday with you scheduling the appointment for Jaime Adan Ballesteros and his attorney to meet with Colonel Thomas regarding his statement of charges. The meeting is set for 9:00 a.m. on Wednesday, November 19, 1997. The meeting will take place in Col. Thomas' office at DPS Headquarters (Building A) 5805 N. Lamar, Austin, Texas.

Sincerely,

Dorothy Wright
Executive Assistant
Director's Office

dw

cc: Chief Mike Scott
Chief John West

**DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM**

TO: Eliseo de Leon, Commander, Human Resources Bureau
Tom Haas, Chief, Accounting

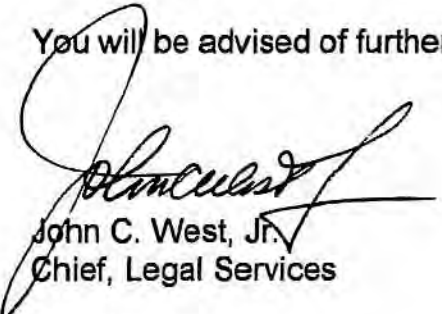
FROM: John C. West, Jr., Chief, Legal Services

DATE: December 15, 1997

SUBJECT: Lt. Jaime Adan Ballesteros

Please be advised that a Statement of Charges dated October 20, 1997 was served October 21, 1997, on Lt. Jaime Ballesteros. Lt. Ballesteros met with the Director on November 19, 1997.

You will be advised of further developments.



John C. West, Jr.
Chief, Legal Services

JCW:js

cc: Colonel Dudley M. Thomas, Director
Mike Scott, Chief, Criminal Law Enforcement ✓
David Outon, Captain, Internal Affairs



DUDLEY M. THOMAS
DIRECTOR

THOMAS A. DAVIS, JR.
ASST. DIRECTOR

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD. - BOX 4087 - AUSTIN, TEXAS 78773-0001
512/424-2000



COMMISSION
JAMES B. FRANCIS, JR.
CHAIRMAN
RONALD D. KRIST
ROBERT B. HOLT
COMMISSIONERS

January 8, 1998

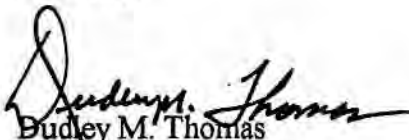
Lieutenant Jaime Adan Ballesteros
Narcotics Service
Department of Public Safety
9000 IH-35
Austin, Texas 78753

Dear Lieutenant Ballesteros:

I have carefully considered all the points raised by you and your attorney in our meeting of November 19, 1997, and I have determined that you have not rebutted the charges set out in the Statement of Charges of October 20, 1997. No cause has been presented to alter my preliminary decision. Therefore, it is now my decision that you be discharged from the Texas Department of Public Safety effective at 5:00 p.m., upon the date you receive this letter, pursuant to the authority vested in me by Section 411.007, Government Code.

As an employee who has served more than one year with the Department, you have the right to appeal my action to the Public Safety Commission pursuant to Section 411.007, Government Code, and Department of Public Safety General Manual Section 07.46.02(1). If you wish to exercise your right of appeal, such notice of appeal must be given in writing and received by me at the Department of Public Safety Headquarters in Austin, Texas, within fifteen (15) days from the date you receive this letter.

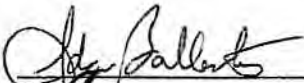

Sincerely,


Dudley M. Thomas
Director

DMT:JW:s

Lieutenant Jaime Ballesteros
January 8, 1998

I acknowledge receipt of the original copy of this document, dated January 8, 1998, signed by the Director of the Department of Public Safety, regarding the status of my employment.

Signed:  Date/Time 01/13/98
Witness:  Date/Time 01/13/98

cc: Lt. Colonel Thomas A. Davis, Jr., Assistant Director
Mike Scott, Chief, Criminal Law Enforcement
Walter C. Eeds, Commander, Narcotics Service
James W. Brubaker, Captain, Narcotics Service
Eliseo de Leon, Commander, Human Resources Bureau
David Outon, Captain, Internal Affairs
John C. West, Jr., Chief, Legal Services

**DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM**

Col. Thomas

[Handwritten initials]

RECEIVED

JAN 30 1998

CRIMINAL LAW
ENFORCEMENT

TO: Eliseo de Leon, Commander, Human Resources Bureau
Tom Haas, Chief, Accounting

FROM: John C. West, Jr., Chief, Legal Services

DATE: January 27, 1998

SUBJECT: Jaime Adan Ballesteros - IA #C96-076.

Please be advised that Jaime Adan Ballesteros has appealed his discharge to the Public Safety Commission.

You will be advised as to the outcome of the discharge appeal hearing.

[Handwritten signature of John C. West, Jr.]

John C. West, Jr.
Chief, Legal Services

JCW:js

cc: Mike Scott, Chief, Criminal Law Enforcement ✓
David Outon, Captain, Internal Affairs

my to
Nate
9/14/98

IN THE MATTER OF

§

BEFORE THE

THE APPEAL OF

§

PUBLIC SAFETY COMMISSION

DISCHARGE OF

§

OF THE

JAIME ADAN BALLESTEROS

§

STATE OF TEXAS

ORDER

BE IT REMEMBERED that the Public Safety Commission convened to hear the appeal of discharge of Jaime Adan Ballesteros on the 12th and 13th of August, 1998. Be it also remembered that on said dates the Commission proceeded to hear the evidence in the above captioned matter and now enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Jaime Adan Ballesteros received adequate notice of hearing. Appellant Ballesteros appeared in person on August 12th and 13th, 1998, and by and through his attorneys, Carl A. Parker and Donald W. Dickson, II.
2. The facts admitted in evidence fully supported the allegations contained in the Statement of Charges served October 21, 1997.
3. The evidence supports and justifies the discharge of Jaime Adan Ballesteros.

CONCLUSIONS OF LAW

1. All necessary due process requirements have been met.
2. The evidence presented by the Department is legally sufficient to support the allegations in the Statement of Charges on October 21, 1997.
3. All of the employee's rights with regard to his appeal of discharge have been afforded.
4. The discharge by the Director should be affirmed.
5. There is legal cause to affirm the discharge.

On motion of Comm. McHugh, seconded by Comm. Holt, the appeal of discharge was denied by a vote of 3-0, and the actions of the Director are affirmed.

Entered and signed on the 10th of September, 1998.

James B. Fennell
Chairman of the Public Safety Commission

COPY

**DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM**

M
RECEIVED

SEP 15 1998

CRIMINAL LAW
ENFORCEMENT

TO: Eliseo de Leon, Commander, Human Resources Bureau
Tom Haas, Chief, Accounting

FROM: Mary Ann Courter, Chief, Legal Services

DATE: September 14, 1998

SUBJECT: Discharge of Jaime Adan Ballesteros (IA #C96-076)

A hearing was held on August 12 and 13, 1998, in the matter of appeal of discharge of Jaime Adan Ballesteros. The Public Safety Commission supported the Director's action to discharge Mr. Ballesteros.

Therefore, an HR-25 should be completed indicating that Mr. Ballesteros was "Discharged" for Cause per Commission Decision, effective September 10, 1998.



Mary Ann Courter
Chief, Legal Services

MAC:js

cc: Colonel Dudley M. Thomas, Director
Mike Scott, Chief, Criminal Law Enforcement ✓
David Outon, Captain, Internal Affairs

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RECEIVED

AUG 06 1999

INTERNAL AFFAIRS

deserving police attention; or absent from duty without leave.

DPS General Manual, Chapter 5, Section 05.56.00, Departmental Reports

Members of the department shall submit all required reports on time and in accordance with established departmental procedures. Reports submitted shall be truthful and complete, and no member shall knowingly enter or cause to be entered any inaccurate, false, or improper information. Employees reporting false information shall be subject to severe disciplinary action.

DPS General Manual, Chapter 6, Section 06.10.01, General Order Numbers 4 and 10

As a member of the Texas Department of Public Safety, it shall be my duty:

4. To know and obey orders and instructions at all times.

10. To conduct myself at all times, both on and off duty, in such a manner that I may merit the voluntary commendation of all law abiding citizens and visitors with whom I come in contact, both those with whom I meet in carrying out my duties and those I shall live among as a citizen in order that credit may be reflected upon the Texas Department of Public Safety.

DPS Criminal Law Enforcement Manual, Narcotics Service, Part 2, Chapter 6, Section 06.10.02, Investigations

Investigators of the Department of Public Safety, Narcotics Service, will continually maintain proficiency in all areas of investigative techniques and will conduct all investigations in a professional manner. Investigators will initiate and assist in investigations only after an evaluation of information and the determination that the probability of a violation of state or federal statutes exists. All activities of investigators acting in an official investigative capacity will be documented in the existing reporting system.

DPS Criminal Law Enforcement Manual, Part 1, Chapter 2, Section 02.55.00, Reporting

Information relating to criminal actions reported, police actions taken, equipment usage, and other official activities performed by CLE division personnel shall be reported on time, accurately, and completely in a manner and form prescribed by the Chief of CLE.

COUNT 2

It is alleged that you, along with Special Agent Thomas K. Solis of the Drug Enforcement Administration, permitted the importation of 1,055 kilograms of cocaine into the United States and that you were aware of this criminal conduct prior to the time you reported it to your supervisors. The basis for this count is that on or about July 5 or 6, 1991, cocaine was imported into the United States, with your knowledge, however, you failed to report this importation to your supervisors until July 10, 1991.

This conduct, if true, violates the following DPS rules and regulations:

DPS General Manual, Chapter 5, Section 05.06.04, Competency to Perform Duty

All members of the department shall maintain sufficient competency to properly perform their duties

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD. - BOX 4087 - AUSTIN, TEXAS 78773-0001
512/424-2000



DUDLEY M. THOMAS
DIRECTOR

THOMAS A. DAVIS, JR.
ASST. DIRECTOR



COMMISSION
JAMES B. FRANCIS, JR.
CHAIRMAN
RONALD D. KRIST
ROBERT B. HOLT
COMMISSIONERS

October 29, 1997

RECEIVED

OCT 29 1997

CRIMINAL LAW
ENFORCEMENT

Mr. Donald W. Dickson, II
% Parker & Parks, LLP
1800 Guadalupe, 2nd Floor
Austin, Texas 78701-1235

RE: Jaime Adan Ballesteros

Dear Mr. Dickson:

This is to confirm my telephone conversation of yesterday with you scheduling the appointment for Jaime Adan Ballesteros and his attorney to meet with Colonel Thomas regarding his statement of charges. The meeting is set for 9:00 a.m. on Wednesday, November 19, 1997. The meeting will take place in Col. Thomas' office at DPS Headquarters (Building A) 5805 N. Lamar, Austin, Texas.

Sincerely,

Dorothy Wright
Executive Assistant
Director's Office

dw

cc: Chief Mike Scott
Chief John West

**DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM**

TO: Eliseo de Leon, Commander, Human Resources Bureau
Tom Haas, Chief, Accounting

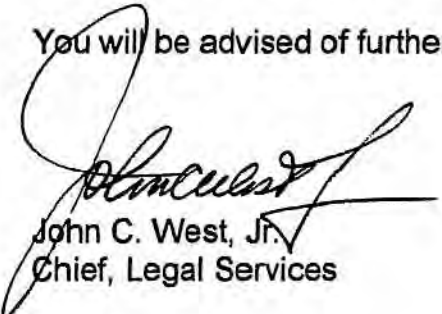
FROM: John C. West, Jr., Chief, Legal Services

DATE: December 15, 1997

SUBJECT: Lt. Jaime Adan Ballesteros

Please be advised that a Statement of Charges dated October 20, 1997 was served October 21, 1997, on Lt. Jaime Ballesteros. Lt. Ballesteros met with the Director on November 19, 1997.

You will be advised of further developments.



John C. West, Jr.
Chief, Legal Services

JCW:js

cc: Colonel Dudley M. Thomas, Director
Mike Scott, Chief, Criminal Law Enforcement ✓
David Outon, Captain, Internal Affairs



DUDLEY M. THOMAS
DIRECTOR

THOMAS A. DAVIS, JR.
ASST. DIRECTOR

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD. - BOX 4087 - AUSTIN, TEXAS 78773-0001
512/424-2000



COMMISSION
JAMES B. FRANCIS, JR.
CHAIRMAN
RONALD D. KRIST
ROBERT B. HOLT
COMMISSIONERS

January 8, 1998

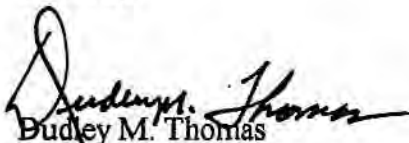
Lieutenant Jaime Adan Ballesteros
Narcotics Service
Department of Public Safety
9000 IH-35
Austin, Texas 78753

Dear Lieutenant Ballesteros:

I have carefully considered all the points raised by you and your attorney in our meeting of November 19, 1997, and I have determined that you have not rebutted the charges set out in the Statement of Charges of October 20, 1997. No cause has been presented to alter my preliminary decision. Therefore, it is now my decision that you be discharged from the Texas Department of Public Safety effective at 5:00 p.m., upon the date you receive this letter, pursuant to the authority vested in me by Section 411.007, Government Code.

As an employee who has served more than one year with the Department, you have the right to appeal my action to the Public Safety Commission pursuant to Section 411.007, Government Code, and Department of Public Safety General Manual Section 07.46.02(1). If you wish to exercise your right of appeal, such notice of appeal must be given in writing and received by me at the Department of Public Safety Headquarters in Austin, Texas, within fifteen (15) days from the date you receive this letter.

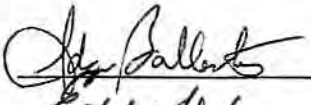

Sincerely,


Dudley M. Thomas
Director

DMT:JW:s

Lieutenant Jaime Ballesteros
January 8, 1998

I acknowledge receipt of the original copy of this document, dated January 8, 1998, signed by the Director of the Department of Public Safety, regarding the status of my employment.

Signed:  Date/Time 01/13/98
Witness:  Date/Time 01/13/98

cc: Lt. Colonel Thomas A. Davis, Jr., Assistant Director
Mike Scott, Chief, Criminal Law Enforcement
Walter C. Eeds, Commander, Narcotics Service
James W. Brubaker, Captain, Narcotics Service
Eliseo de Leon, Commander, Human Resources Bureau
David Outon, Captain, Internal Affairs
John C. West, Jr., Chief, Legal Services

**DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM**

Col. Thomas

[Handwritten initials]

RECEIVED

JAN 28 1998

CRIMINAL LAW
ENFORCEMENT

TO: Eliseo de Leon, Commander, Human Resources Bureau
Tom Haas, Chief, Accounting

FROM: John C. West, Jr., Chief, Legal Services

DATE: January 27, 1998

SUBJECT: Jaime Adan Ballesteros - IA #C96-076.

Please be advised that Jaime Adan Ballesteros has appealed his discharge to the Public Safety Commission.

You will be advised as to the outcome of the discharge appeal hearing.

[Handwritten signature of John C. West, Jr.]

John C. West, Jr.
Chief, Legal Services

JCW:js

cc: Mike Scott, Chief, Criminal Law Enforcement ✓
David Outon, Captain, Internal Affairs

Copy to
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9/14/98

IN THE MATTER OF

§

BEFORE THE

THE APPEAL OF

§

PUBLIC SAFETY COMMISSION

DISCHARGE OF

§

OF THE

JAIME ADAN BALLESTEROS

§

STATE OF TEXAS

ORDER

BE IT REMEMBERED that the Public Safety Commission convened to hear the appeal of discharge of Jaime Adan Ballesteros on the 12th and 13th of August, 1998. Be it also remembered that on said dates the Commission proceeded to hear the evidence in the above captioned matter and now enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Jaime Adan Ballesteros received adequate notice of hearing. Appellant Ballesteros appeared in person on August 12th and 13th, 1998, and by and through his attorneys, Carl A. Parker and Donald W. Dickson, II.
2. The facts admitted in evidence fully supported the allegations contained in the Statement of Charges served October 21, 1997.
3. The evidence supports and justifies the discharge of Jaime Adan Ballesteros.

CONCLUSIONS OF LAW

1. All necessary due process requirements have been met.
2. The evidence presented by the Department is legally sufficient to support the allegations in the Statement of Charges on October 21, 1997.
3. All of the employee's rights with regard to his appeal of discharge have been afforded.
4. The discharge by the Director should be affirmed.
5. There is legal cause to affirm the discharge.

On motion of Comm. McHugh, seconded by Comm. Holt, the appeal of discharge was denied by a vote of 3-0, and the actions of the Director are affirmed.

Entered and signed on the 10th of September, 1998.

James B. Fanning Jr.
Chairman of the Public Safety Commission

COPY

**DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM**

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RECEIVED
SEP 15 1998
CRIMINAL LAW
ENFORCEMENT

TO: Eliseo de Leon, Commander, Human Resources Bureau
Tom Haas, Chief, Accounting

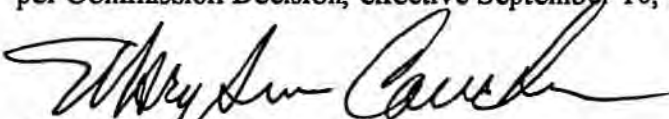
FROM: Mary Ann Courter, Chief, Legal Services

DATE: September 14, 1998

SUBJECT: Discharge of Jaime Adan Ballesteros (IA #C96-076)

A hearing was held on August 12 and 13, 1998, in the matter of appeal of discharge of Jaime Adan Ballesteros. The Public Safety Commission supported the Director's action to discharge Mr. Ballesteros.

Therefore, an HR-25 should be completed indicating that Mr. Ballesteros was "Discharged" for Cause per Commission Decision, effective September 10, 1998.



Mary Ann Courter
Chief, Legal Services

MAC:js

cc: Colonel Dudley M. Thomas, Director
Mike Scott, Chief, Criminal Law Enforcement ✓
David Outon, Captain, Internal Affairs

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INTERNAL AFFAIRS

and assume the responsibilities of the positions. Duties shall be performed in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the department. Incompetence may be demonstrated by an unwillingness or inability to perform assigned tasks; failure to conform to work standards established for rank, grade, or position; a failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention; or absent from duty without leave.

DPS General Manual, Chapter 5, Section 05.10.00, Compliance with Law

Members of the Department of Public Safety are expected to be an example to the public in abiding by all laws of the United States, this state, and local jurisdictions.

DPS General Manual, Chapter 5, Section 05.56.00, Departmental Reports

Members of the Department shall submit all required reports on time and in accordance with established departmental procedures. Reports submitted shall be truthful and complete, and no member shall knowingly enter or cause to be entered any inaccurate, false, or improper information. Employees reporting false information shall be subject to severe disciplinary action.

DPS General Manual, Chapter 6, Section 06.10.01, General Order Numbers 4 and 10

As a member of the Texas Department of Public Safety it shall be my duty:

4. To know and obey orders and instructions at all times.

10. To conduct myself at all times, both on and off duty, in such a manner that I may merit the voluntary commendation of all law-abiding citizens and visitors with whom I come in contact, both those with whom I meet in carrying out my duties and those I shall live among as a citizen in order that credit may be reflected upon the Texas Department of Public Safety.

DPS Criminal Law Enforcement Manual, Part I, Chapter 2, Section 02.55.00, Reporting

Information relating to criminal actions reported, police actions taken, equipment usage, and other official activities performed by CLE division personnel shall be reported on time, accurately, and completely in a manner and form prescribed by the Chief of CLE.

DPS Criminal Law Enforcement Manual, Narcotics Service Part II, Chapter 6, Section 06.10.02, Investigations

Investigators of the Department of Public Safety Narcotics Service will continually maintain proficiency in all areas of investigative techniques and will conduct all investigations in a professional manner.

1. Investigators will initiate and assist in investigations only after an evaluation of information and the determination that the probability of a violation of state or federal statutes exists. All activities of investigators acting in an official investigative capacity will be documented in the existing reporting system.

It is alleged that you permitted, allowed, and participated in the importation and distribution of 2,000 kilograms of cocaine. It is alleged that the importation of the cocaine occurred on July 26 and 27, 1991 and that it was distributed on July 30, 31, and August 4, 1991. It is alleged that you knew of the importation and distribution of the drugs and that they were never seized.

This conduct, if true, violates the following DPS rules and regulations:

DPS General Manual, Chapter 5, Section 05.06.04, Competency to Perform Duty

All members of the department shall maintain sufficient competency to properly perform their duties and assume the responsibilities of the positions. Duties shall be performed in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the department. Incompetence may be demonstrated by an unwillingness or inability to perform assigned tasks; failure to conform to work standards established for rank, grade, or position; a failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention; or absent from duty without leave.

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DPS General Manual, Chapter 6, Section 06.10.01, General Order Numbers 4 and 10

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DPS Criminal Law Enforcement Manual Part I, Chapter 2, Section 02.55.00, Reporting

Information relating to criminal actions reported, police actions taken, equipment usage, and other official activities performed by CLE division personnel shall be reported on time, accurately, and completely in a manner and form prescribed by the Chief of CLE.

Investigators of the Department of Public Safety Narcotics Service will continually maintain proficiency in all areas of investigative techniques and will conduct all investigations in a professional manner.

1. Investigators will initiate and assist in investigations only after an evaluation of information and the determination that the probability of a violation of state or federal statutes exists. All activities of investigators acting in an official investigative capacity will be documented in the existing reporting system.

COUNT 4

It is alleged that you accepted money from Otto Vilmer Chacon, a person whom you knew to be an informant. It is alleged that you received \$2,000.00 from Chacon in the early part of 1990, \$3,000.00 from Chacon used to purchase a computer on March 6, 1990, \$15,000.00 from Chacon used to purchase a new Suburban on April 27, 1990, and \$50,000.00 after you facilitated the importation and distribution of the 2,000 kilograms of cocaine alleged in Count 3.

This conduct, if true, violates the following DPS rules and regulations:

Penal Code, Chapter 36, Section 36.02, Bribery

- (a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
 - (1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter . . .
 - (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official. . . .

Penal Code, Chapter 36, Section 36.08, Gift to Public Servant by Person Subject to His Jurisdiction.

- (a) A public servant in an agency performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his agency.

Penal Code, Chapter 39, Section 39.01, Official Misconduct

- (a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:
 - (1) violates a law relating to the public servant's office or employment; or
 - (2) misapplies any thing of value belonging to the government that has come into his custody or possession by virtue of his office or employment.
- (b) An offense under Subsection (a)(1) of this section is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) is:

...
(4) a state jail felony if the value of the use of the thing misused is \$1,500 or more but less than \$20,000;

(5) a felony of the third degree if the value of the use of the thing misused is \$20,000 or more but less than \$100,000;
....

DPS General Manual, Chapter 5, Section 05.10.00, Compliance with Law

Members of the Department of Public Safety are expected to be an example to the public in abiding by all laws of the United States, this state, and local jurisdictions.

DPS General Manual, Chapter 5, Section 05.50.02, Borrowing Money and Accepting Gifts

Nonmembers. No member of the Department shall borrow any money or accept gifts or fees from any person seeking a departmental service, a favor, or information for himself or others or from anyone known, suspected, or reputed to be a violator of the law.

DPS General Manual, Chapter 6, Section 06.10.01, General Order Numbers 4 and 10

As a member of the Texas Department of Public Safety it shall be my duty:

4. To know and obey orders and instructions at all times.

10. To conduct myself at all times, both on and off duty, in such a manner that I may merit the voluntary commendation of all law-abiding citizens and visitors with whom I come in contact, both those with whom I meet in carrying out my duties and those I shall live among as a citizen in order that credit may be reflected upon the Texas Department of Public Safety.

DPS Criminal Law Enforcement Manual, Narcotics Service, Part II, Chapter 6, Section 06.30.01, Relationship of Investigators with Cooperating Individuals

1. Law enforcement officers generally realize that the paid or criminal-type of cooperating individual who "informs to" them is equally willing to "inform on" them. Cooperating individuals frequently go to other police officials with allegations generally relating to the cooperating individual's belief that he was mistreated in some fashion by the officer. Many times cooperating individuals concoct elaborate plots to trap an officer who has, for some reason, incurred their displeasure.

2. Narcotics Service employees will not knowingly permit any illegal act by cooperating individuals. Condoning such acts makes the officer an accomplice and places him in a defensive position in future dealings with the cooperating individual. Condoning such an act may cost an officer his job. Many cooperating individuals "work" police officers for any of a wide variety of reasons, either to eliminate a competitor, to gain information, or to keep the officer engaged while others commit illegal acts. It is the policy of this service that the relationships between personnel and cooperating individuals be of a completely ethical and professional nature. Social contact will be strictly avoided, unless necessary in the furtherance of an official investigation, and then only with prior consent of the employee's supervisor.

3. Any off-duty fraternizing with a cooperating individual or friends of a cooperating individual (who are associates or have been associated with criminals or criminal activities or who are persons of other than good repute) is forbidden. No employee will withhold the identity of a cooperating individual from his superiors. It is the duty of each investigator to keep his superiors currently advised of his activities with cooperating individuals; their names, addresses, and background.

COUNT 5

It is alleged that through the period of time you dealt with and worked with Chacon, you failed to take up matters affecting you and your position with your supervisor, and you failed to keep your supervisors fully apprised of your activities. You failed to make timely, accurate, and truthful reports regarding your own activities. You misrepresented and omitted material facts in written and oral reports to your supervisors to prevent them from knowing of your involvement in the controlled substance smuggling organization.

This conduct, if true, violates the following DPS rules and regulations:

DPS General Manual, Chapter 5, Section 05.06.04, Competency to Perform Duty

All members of the department shall maintain sufficient competency to properly perform their duties and assume the responsibilities of the positions. Duties shall be performed in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the department. Incompetence may be demonstrated by an unwillingness or inability to perform assigned tasks; failure to conform to work standards established for rank, grade, or position; a failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention; or absent from duty without leave.

DPS General Manual, Chapter 5, Section 05.10.00, Compliance with Law

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DPS General Manual, Chapter 5, Section 05.56.00, Departmental Reports

Members of the Department shall submit all required reports on time and in accordance with established departmental procedures. Reports submitted shall be truthful and complete, and no member shall knowingly enter or cause to be entered any inaccurate, false, or improper information. Employees reporting false information shall be subject to severe disciplinary action.

DPS General Manual, Chapter 6, Section 06.10.01, General Order Numbers 4 and 10

To know and obey orders and instructions at all times. To conduct myself at all times, both on and off duty, in such a manner that I may merit the voluntary commendation of all law-abiding citizens and visitors with whom I come in contact, both those with whom I meet in carrying out my duties and those I shall live among as a citizen in order that credit may be reflected upon the Texas Department of Public Safety.

DPS Criminal Law Enforcement Manual Part I, Chapter 2, Section 02.55.00, Reporting

Information relating to criminal actions reported, police actions taken, equipment usage, and other

official activities performed by CLE division personnel shall be reported on time, accurately, and completely in a manner and form prescribed by the Chief of CLE.

DPS Criminal Law Enforcement Manual, Narcotics Service Part II, Chapter 6, Section 06.10.02 - Investigations

Investigators of the Department of Public Safety Narcotics Service will continually maintain proficiency in all areas of investigative techniques and will conduct all investigations in a professional manner.

1. Investigators will initiate and assist in investigations only after an evaluation of information and the determination that the probability of a violation of state or federal statutes exists. All activities of investigators acting in an official investigative capacity will be documented in the existing reporting system.

The conduct that has been set out hereinbefore and the rules that it violates are consistent with and support a classification of sustained. Further, this conduct is in direct violation of the Public Safety Commission Rule, Title 37, Texas Administrative Code, Section 1.114, and General Manual, Chapter 6, Section 06.30.02, Major Infraction Applicable to Any Member, in the following particulars:

Any of the major infractions listed as follows may be deemed sufficient cause for the discharge, suspension, demotion, or removal of any member of the Department of Public Safety:

2. Violation of one or more of the Ten General Orders, to wit: General Orders 4 and 10, DPS General Manual, Section 06.10.01.
3. Violation of any rule, order, requirement, or failure to follow instructions contained in Department manuals, to wit: DPS General Manual, Sections 05.06.04, 05.50.02, and 05.56.00; DPS Criminal Law Enforcement Manual, Part 1, Section 02.55.00 and Part 2, Sections 06.10.02 and 06.30.01.
11. Violations of law which are willful or inexcusable, to wit: DPS General Manual, Chapter 5, Section 05.10.00; Penal Code, Chapter 36, Sections 36.02 and 36.08; Penal Code, Chapter 39, Section 39.01.
12. Acceptance of fees, gifts, or money contrary to the rules of the Department and/or laws of the state; to wit: DPS General Manual, Chapter 5, Section 05.50.02.
13. Any act on or off duty which reflects discredit to the Department of Public Safety; as hereinbefore stated.

Based on the foregoing, it is my preliminary decision that you should be discharged from the Texas Department of Public Safety. You are advised that the aforementioned action on your part is sufficient grounds for termination of your employment with the Texas Department of Public Safety for just cause as provided in Government Code, Section 411.007(3), and that I consider your actions to be unacceptable and in direct violation of the General Manual provisions as hereinbefore set out. Accordingly, I am authorized by statute as set out below to discharge you, to wit:

An officer or employee of the Department may not be discharged without just cause. The director shall determine whether an officer or employee is to be discharged. An officer or employee ordered

discharged may appeal to the Commission, and during the appeal, the officer or employee shall be suspended without pay.

Pursuant to the aforementioned statute, it is my preliminary determination that you be terminated as an employee, as set out hereinafter.


As it is my preliminary determination to discharge you, you are now afforded an opportunity to come forward and provide any information, documentation, or other relevant data that you wish to provide and that it bears upon my final decision. I afford you an opportunity to request a meeting with me or to submit your position to me in writing. You will be allowed up to five (5) days from the date upon which you receive this letter to request such a meeting or to submit written materials. If a meeting cannot be scheduled within (5) days, I will hold my action in abeyance to give you ample opportunity to bring forward any compelling reasons that you might have that would cause me to stay my action in this case. The burden is entirely upon you to come forward and present evidence to me. The purpose of this opportunity that I am affording you is to hear from you and not to conduct an adversarial evidentiary hearing. If I have not heard from you upon the expiration of the time set out hereinabove, your employment will be terminated effective that date. If you have contacted me, then I will take no action until you have met with me or submitted your written materials. I will give full consideration to all matters that you present. You will remain on suspended with pay status until the matter is resolved.

Please be advised that, as a permanent employee of the Department, in the event that I do discharge you, you will have the right to appeal to the Public Safety Commission, which said right will be further explained to you at an appropriate time, if necessary.

In closing, I remind you that if you have any compelling reasons for me to stay my action, the burden is upon you to bring such reasons forward to me within the period of time set out hereinabove.

During the pendency of this five-day period of time and the action to which it relates, you will remain suspended with pay. If you have not already done so, you are instructed to surrender all departmental equipment to your supervisors at the time you receive this letter. You are to report to Captain Tony Garcia by telephone before 10:00 a.m. every Monday to receive orders and instructions while you are on suspended with pay status. You are to take no action for or on behalf of the Texas Department of Public Safety. You will remain on suspended with pay status until you are notified in writing that your status has changed.

Sincerely,


Dudley M. Thomas
Director

cc: Lt. Colonel Thomas A. Davis, Jr., Assistant Director
Mike Scott, Chief, Criminal Law Enforcement
Walter C. Eeds, Commander, Narcotics Service
James W. Brubaker, Captain, Narcotics Service
Eliseo de Leon, Commander, Human Resources Bureau
David Outon, Captain, Internal Affairs
John C. West, Jr., Chief, Legal Services