

Dallas police officer's testimony may taint dozens of cases

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The Dallas County district attorney's office may have to throw out dozens of cases after learning that a police sergeant officially branded a liar 15 years ago continued to testify in criminal courts.

A letter released Wednesday by the district attorney's office to Dallas Police Chief David Kunkle says Sgt. Randy Sundquist shouldn't be trusted to testify in court. The unusual move comes after the office discovered a similar notice had been issued in 1994, but was largely ignored.

It is unknown exactly how many past and pending cases might be affected by Sundquist's testimony, but in a recent court hearing, Sundquist estimated that he had taken the stand between 50 and 100 times since 1995.

"We have to look at what role he played and whether or not we can make the case without his testimony," First Assistant District Attorney Terri Moore said Wednesday. "If we can't make the case without his testimony, then that case is going to be dismissed."

In 1994, police investigators found, among other things, that Sundquist conducted an illegal search, lied to internal investigators and caused false information to be entered into an arrest report. The notice issued to then-Police Chief Ben Click stated that, due to his record, he should not be allowed to testify.

Sundquist was fired, but reinstated by an administrative law judge. Authorities then apparently forgot that he should not be allowed to testify.

Neither Sundquist or his attorney returned phone calls for comment.

The notices would ordinarily doom an officer to a desk job or some similar post where the officer doesn't make arrests or get involved in situations where he might eventually be required to testify in court. An entire case could fall apart if a tainted officer's testimony was critical to gaining a conviction.

But after being reinstated, Sundquist went on to become leader of a deployment squad in northeast Dallas that tackles special assignments and deals with crime hot spots. His squad largely focused on drug arrests.

Neither police officials or the district attorney's office has a clear answer as to why Sundquist was allowed to testify in the 15 years since prosecutors issued the first letter saying he shouldn't. They say the original notice fell through the cracks, probably because the system largely depended on word of mouth to keep barred officers from testifying.

On Wednesday, police commanders quickly moved to relieve Sundquist of his duties as supervisor of the deployment squad.

"We received the letter today, and the letter will require us to put him in a job where he is not subject to have to testify," Kunkle said.

Defense attorney Bill Wirskye, who represents several clients in cases involving Sundquist, urged prosecutors to take their efforts a step further and dismiss all pending cases involving officers Sundquist supervised.

"A bad police officer like this ought never to be allowed to outrun his past," said Wirskye. "This letter and Sundquist's past is just the tip of the iceberg with the problems they have with him and the unit he supervises."

Officers in that unit were already the subject of a *Dallas Morning News* story in February that reported that the district attorney's office was reviewing dozens of cases filed by Sundquist and his squad after prosecutors concluded that one of his subordinates lied about whether a man was illegally carrying a gun and drugs. The man spent 10 months in jail on false charges.

Sundquist has taken the stand in cases as recently as this year, but it isn't known yet whether any of his testimony was false or misleading.

Getting a grip on how many convictions might have been critically based on Sundquist's testimony in the last 15 years is a daunting task: Electronic records that can be searched to determine who testified did not exist in Dallas County until 2005. The district attorney's office wants anyone who participated in a case in which Sundquist testified before then to contact them.

1994 letter

In the Dec. 21, 1994, letter in which prosecutors were told not to put Sundquist on the stand, then-Assistant District Attorney Michael Gillett wrote that he had been found to have made "intentional misrepresentations," so prosecutors could no longer "vouch for the credibility or sponsor the testimony" of Sundquist.

In a March hearing on a Cedar Hill drug case, Sundquist testified that he had never received any written or verbal instructions indicating he was not cleared to testify. He said he only told prosecutors about his past history when asked if he had anything to disclose that would hinder his credibility as a witness.

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He testified that within the last year or so that had only happened twice, and he had been "approved by upstairs" to testify.

But according to the trial transcript of one of those cases, prosecutor Robert McClure told a judge and defense attorney in open court that Sundquist had been fired in the past.

"He's been testifying for years," McClure said in court. He decided not to call Sundquist as a witness in that case.

'Bushmen'

In the mid-1990s, Sundquist and other patrol officers were known among prosecutors as the "Bushmen," a reference to the group's fondness for hiding in bushes when conducting surveillance on suspected drug houses in South Dallas.

Colleen Murphy, a prosecutor, testified in Sundquist's 1995 appeal of his firing that some prosecutors didn't want to work with the "Bushmen" because their cases "were just totally unbelievable."

"They'd see amazing things in the middle of the night with no lights, from far distances," she testified.

Internal police investigators found that Sundquist had conducted an illegal search. They also concluded that Sundquist lied to them, finding among other things that he couldn't have seen what he claimed to have seen when he said that a man was standing in a doorway with a bag of cocaine.

"I found numerous flaws in their testimony and very shoddy arrest reports," Sgt. Jose Losoya told internal investigators. "These omissions or flaws could prove disastrous in a court case. As it was, it gave the impression that the officers were falsifying their reports to get drug dealers at all costs."

After he was fired, prosecutors issued the first letter barring him from further court testimony. An administrative law judge subsequently reinstated Sundquist and reduced the punishment to a 40-day suspension.

That judge, Barnett Goodstein, overturned the internal affairs finding that Sundquist had conducted an illegal search but upheld the finding that he had brought discredit to the department, given a false statement to investigators and that he provided false information for an arrest report.

Sundquist then worked in the communications division for about three years, receiving high marks. He eventually returned to patrol duties and was promoted to sergeant in 2002.

Senior police officials say that over time, the squad Sundquist supervised morphed into a *de facto* narcotics unit, frequently tasked with working drug activity complaints. Commanders instructed them to no longer work such cases earlier this year.

AT A GLANCE: BRADY VIOLATIONS

- **What it is:** A 1963 U.S. Supreme Court ruling in *Maryland vs. Brady* requires that prosecutors disclose to the defense when a police officer has knowingly lied in an official capacity. To fail to do so is a constitutional "Brady" violation that can lead to the dismissal of a case.

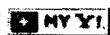
- **Avoiding Brady violations in Dallas:** Officials have largely depended on word-of-mouth to keep officers with questionable records from testifying. Individual prosecutors or the officer in question have been expected to let the defense know of potential problems.

- **Fixing the problem:** The Dallas County district attorney's office and Dallas police say they're going to develop a systemic mechanism to track officers with credibility problems. In Los Angeles County, for example, the district attorney has created a computer-based Brady Alert system.

- **Accident or intention:** Bennett Gershman, a Pace University law professor who studies prosecutorial misconduct, says it won't matter to the courts whether prosecutors intentionally or accidentally put a tainted officer on the stand. "If you didn't reveal it because you were totally ignorant of the existence of this information, Brady is still violated," Gershman said. Convictions in such cases have a greater likelihood to be overturned on appeal.



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