

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA  
CRIMINAL DIVISION

THE STATE OF FLORIDA,

CASE NO: 2009-CF-009771-AXXX

Plaintiff.  
vs.

JUDGE: KELLEY

DALIA DIPPOLITO,

Defendant.  
\_\_\_\_\_ /

**MOTION TO DISMISS THE CASE**

COMES NOW the defendant, Dalia Dippolito by and through undersigned counsel, pursuant to Rule 3.190 (b), of the Florida Rules of Criminal Procedure, and moves this Honorable Court to Dismiss the Information against Dippolito.

**FACTUAL & PROCEDURAL HISTORY**

1. On July 31, 2009, Mohamed Shihadeh approached an officer of the Boynton Beach Police Department (“BBPD”) to report that Dippolito requested his help to kill her husband. Police interviewed Mr. Shihadeh that same day and fraudulently obtained his signature on BBPD’s Confidential Informant Packet.
2. At the time the investigation began, the reality television show “COPS” was present at BBPD, documenting the events as they unfolded. This was common knowledge due to a department wide memorandum that was distributed.
3. BBPD had Shihadeh set up a meeting with Dippolito on August 1, 2009 at a Mobil gas station to discuss the plan.
4. On August 3, 2009, while at Chili’s with Shihadeh, Dippolito tries to back out of the plan, but is threatened by Shihadeh.
5. On the morning of August 3, 3009, BBPD had Widy Jean take the role of undercover officer and first called and then met with Dippolito to entice her into committing the crime of solicitation. Dippolito did not pay him, give him house keys, provide the house’s alarm code or give her address.

6. On August 5, 2009, BBPD staged a fake crime scene and invited the COPS crew to film Dippolito's reaction as she was informed (falsely) that her husband had been killed. BBPD public relations office Stephanie Slater raced from the staged crime scene to the BBPD station to upload the video footage of the staged crime scene and other evidentiary surveillance videos onto YouTube. The video footage went viral on the Internet, and, as a consequence the case garnered an extraordinary amount of media attention in advance of litigation.
7. On September 3, 2009 the State charged Dippolito with Solicitation to Commit First Degree Murder with a Firearm in violation of Sections 777.04(2), 782.04(1)(a)(1) and 782.04(1)(a)(2), Florida Statutes. A jury trial ensued from April 25, 2011 through May 13, 2011. The jury returned a guilty verdict and the trial court imposed a prison sentence of twenty years.
8. Dippolito filed a Notice of Appeal within thirty days of the Judgment and Sentence and subsequently filed an appeal.
9. On July 30, 2014, the Appellate Court issued its order reversed and remanded for a new trial.

#### **MEMORANDUM OF POINTS AND AUTHORITIES**

#### **I. FLORIDA COURTS RECOGNIZE OBJECTIVE ENTRAPMENT AS A GROUND TO DISMISS ALL CHARGES**

Florida courts have consistently applied an objective standard of entrapment throughout history, repeatedly emphasizing the importance of protecting an individual's due process rights. *Munoz v. State*, 629 So. 2d 91-96 (Fla. 1993); *State v. Glosson*, 462 So. 2d 1082 (Fla. 1985); *Cruz v. State*, 465 So. 2d 516 (Fla. 1985 ). In 1987, the Florida legislature enacted its entrapment statute codified in section 777.201, which applies a subjective standard of entrapment and focuses on the individual's predisposition to commit a crime. E.g, *Soohoo v. State*, 737 So. 2d 1108, 1108 (Fla. Dist. Ct. App. 1999). However, even though this enactment codified a subjective test, the Florida Supreme Court made it abundantly clear that the legislature had no authority to overrule the court's earlier decisions applying an "objective" standard where an individual's due process rights were violated under article I, section 9 of the Florida Constitution. See *Munoz*, 629 So. 2d 98-99. To this date, Florida courts continue to also adopt and apply an objective standard of entrapment. See *State v. Anders*, 596 So. 2d 463 (Fla. 4th DCA 1992), *Soohoo v. State*, 737 So. 2d 1108, 1108 (Fla. Dist.

Ct. App. 1999); *Dial v. State*, 799 So. 2d 407, 408 (Fla. Dist. Ct. App. 2001). *Bist v. State*, 35 So. 3d 936 (Fla. Dist. Ct. App. 2010).

Because the legislature cannot abrogate an individual's due process rights, §777.201 is inapplicable if a judge determines as a matter of law that law enforcement has engaged in conduct so reprehensible that it amounts to a violation of due process. *See Munoz*, 629 So. 2d at 98. The classic due process analysis regarding police conduct remains a purely legal issue that must be decided by the court and not the jury. *Gonzalez v. State*, 571 So. 2d 1346, 1351 (Fla. Dist. Ct. App. 1990). Furthermore, when law enforcement has engaged in "egregious misconduct" amounting to a due process violation, the defendant's predisposition to commit the alleged offense is irrelevant no matter how heinous the offense is. *See State v. Williams*, 623 So. 2d at 462; *State v. Glosson*, 462 So. 2d 1082, 1084, (citing *United States v. Russell*, 411 U.S 423, 431-32.); *Bist*, 35 So. 3d at 938.

In *Munoz*, the Florida Supreme Court decided to stray from its formulaic objective two-part test it previously adopted in *Cruz v. State*, but reaffirmed prior entrapment cases that applied an objective due process analysis. *See Soohoo*, 737 So. 2d at 1110. Importantly, after straying from the formulaic approach, this state's Supreme Court has emphasized "defining the limits of due process is difficult because due process is not a technical, fixed, concept; rather, it is a general principal of law that prohibits prosecutions brought about by methods offending one's sense of justice." *State v. Williams*, 623 So. 2d 462 (Fla. 1993); *Soohoo*, 737 So. 2d at 1110. Hence, it is the courts role to review the totality of the circumstances to determine whether the State's conduct "offend those canons of decency and fairness which express the notions of justice of English-speaking peoples even toward those charged with the most heinous offenses." *Bist*, 35 So. 3d at 938. Under this analysis, courts must strike a balance and "weigh the rights of the defendant against the government's need to combat crime." *Bist*, 35 So. 3d at 938. Florida courts have indicated outrageous government conduct has "one common thread: affirmative and unacceptable conduct by law enforcement or its agent." *Bist*, 35 So. 3d at 938. In sum, when the government's conduct is so outrageous due process principles will and must absolutely bar the government from abusing the judicial process to obtain a conviction.

#### **a. Egregious Misconduct Leading to Dismissal in Florida Courts**

This state's Supreme Court and appellate courts have dismissed charges under an objective standard of entrapment on numerous occasions when law enforcement's "egregious misconduct"

offended one's sense of justice. Florida courts have considered numerous different circumstances in finding "egregious misconduct" amounting to due process violations. For example, in *State v. Glosson*, the trial court properly dismissed charges against the defendant because the sheriffs paid an informant a contingency fee for his cooperation and testimony, thus giving the informant a motive to color his testimony. In *State v. Anders*, charges were properly dismissed when, 1) law enforcement did not monitor the informant's activities, 2) did not instruct informant on how to avoid entrapment, 3) gave the informant a time limit to set-up individuals, and 4) allowed the informant to set up reverse-sting operations unsupervised. *Anders*, 596 So. 2d at 463. In *Dial v. State*, charges were dismissed when: 1) the informant was given leniency on her sentence, 2) informant was the defendant's acquaintance, 3) informant played on defendant's known vulnerabilities, 4) informant was not given guidance or limitations by law enforcement about who to negotiate drug deals, 4) informant was not properly trained on how to avoid entrapment, 5) informant's conversations with the defendant were not monitored, 6) the informant repeatedly urged defendant to follow through with the drug sale leading to her arrest, and 7) the defendant was not suspected of criminal activity beforehand. *Dial*, 799 So. 2d at 409-410.

#### **b. Persuasive Authority on the Law of Entrapment**

Other states applying the objective entrapment standard have found due process violations when law enforcement used improper conduct to obtain convictions; specifically by playing on the vulnerabilities of the defendant and deceiving confidential informants.

For example, in *People v. Gratzer*, the Michigan Court of Appeals dismissed charges against an individual, because the police induced a friend of the defendant to become an informant by threatening to arrest him if he did not assist them in their investigation. The court specifically held that the police were exploiting the friendship between the defendant and the informant for the purpose of obtaining evidence in violation of the defendant's due process rights. Similarly, in *People v. Isaacson*, the New York Court of Appeals dismissed charges against an individual when the police deceived the informant and told him that he was going to be arrested on drug charges, when in fact the police knew those charges were not viable. The informant subsequently targeted an acquaintance with no criminal history, he persistently called defendant seven times, and he tricked the defendant to cross state borders into New York because New York drug laws were harsher. In sum, a wide array of law enforcement conduct can rise to the level of egregious conduct that

deprives individuals of their constitutional due process rights. That is why the court must look at the totality of the circumstances in determining whether egregious misconduct existed.

## **II. THE BBPD'S MISCONDUCT WAS EGREGIOUS AND VIOLATED DIPPOLITO'S SUBSTANTIVE DUE PROCESS RIGHTS**

### **A. INTRODUCTION**

It is well established that “governmental misconduct violating a defendant’s constitutional right to due process of law can, under some circumstances authorize the trial judge to dismiss criminal charges.” *State v. Marks*, 758 So.2d 1131, 1135 (Fla.4<sup>th</sup> DCA 2000) (collecting cases and affirming dismissal of criminal charges). “Due process of law imposes upon a court the responsibility to conduct ‘an exercise of judgment upon the whole course of the proceedings in order to ascertain whether they offend those canons of decency and fairness which expresses the notions of justice.’” *Id.* (quoting *State v. Glossen*, 462 So. 2d 1082 (Fla. 1985)). Thus, each instance of misconduct may not be viewed in isolation; rather the Court must evaluate the aggregate the “whole course of the proceedings,” *id.*, to determine whether the State violated Dippolito’s right to due process under the United States Constitution. If so, the Court should grant this Motion to Dismiss. *See McDonald v. State*, 742 So. 2d 830, 831 (Fla. 4<sup>th</sup> DCA 1999) (A trial court should grant a motion to dismiss an information when police conduct is so egregious as to violate the defendant’s due process rights.”)

Here, BBPD’s misconduct was so egregious that it filtered throughout all parts of the investigation. BBPD’s egregious misconduct was ongoing from the moment Shihadeh entered the police station to the moment Dippolito was convicted. BBPD’s egregious misconduct began when it failed to conduct its due diligence on Shihadeh, their “informant” to verify he was a reliable source. Had BBPD done so, they would have discovered that not only was there no evidence to prove Shihadeh’s allegations, but Dippolito had no criminal history and was not at the center of any pending criminal investigation. However, Shihadeh provided BBPD with the sensational story it needed to garner the interest of COPS show producers and secure its place on the show.

Rather than protect and serve, BBPD exploited the long-term friendship between Shihadeh and Dippolito, and orchestrated and manufactured a crime where none existed to create a Hollywood ending. BBPD failed to conduct a legitimate investigation at any stage of the supposed murder for hire storyline. BBPD’s thirst to script a salacious scene for COPS Television Show

blurred its vision and led to repeated and flagrant violations of its own policies and procedures relating to confidential informants and in the process violated the due process rights of Dippolito. Due process is the most fundamental principle of law and must be applied to Dippolito's case to ensure the administration of justice is properly carried out. The moment BBPD caught wind of an attractive woman in an alleged scheme it tossed Dippolito's due process rights under the bus. For six years BBPD avoided scrutiny. Now, we know why. The case law is unavoidable. The facts are unavoidable. Examination of all the due process violations perpetrated by the BBPD will establish that the preponderance of the evidence rests on the defense's side. The final and fair result is to dismiss these charges in order to hold BBPD accountable for its conduct in committing flagrant constitutional violations and to restore Dippolito's life to her. She will never get a fair trial due to BBPD's nefarious conduct.

BBPD's misconduct was present at all points of the investigation. It began prior the investigation commencing, continued during the investigation, and was even present following the investigation. What follows is a succinct summary of all courses of misconduct broken down into the three categories making up the investigation – before the investigation, during the investigation, and following the investigation:

#### **Before Investigation**

- Informant Shihadeh had a criminal history that included charges of domestic violence;
- Dippolito had no criminal history and was not the subject of any criminal investigation;
- BBPD was aware that Shihadeh and Dippolito had a decade long friendship and sexual relationship;
- BBPD lied to Shihadeh and to coerce him to sign the CI agreement;
- Shihadeh told BBPD multiple times that he did not want to be involved in the investigation;
- Shihadeh did not believe Dippolito was a threat and did not want her arrested;
- There was a three-hour discussion that was not recorded between Shihadeh and members of BBPD.

#### **During Investigation**

- Shihadeh repeatedly said he did not want to participate in the investigation;
- Shihadeh was not monitored or supervised during the meeting with Dippolito in Chili's;

- Shihadeh, according to BBPD did not have an audible listening device at the meeting at Chili's due to equipment malfunction;
- Shihadeh says he was wired at Chili's which would signify BBPD intentionally destroyed evidence because it showed Dippolito backing out and Shihadeh threatening her;
- Over 500 phone calls took place between Shihadeh and Dippolito between August 1-5 2009 which were not supervised or recorded
- Shihadeh disclosed his identity as an informant to several people.

### **Following Investigation**

- Slater posts videos from the investigation on YouTube;
- Sheridan fraudulently obtained Dippolito's signature on a waiver for COPS;
- Sheridan lied in his written report and said he had asked Dippolito if she wouldn't mind being on COPS.

## **B. LAW ENFORCEMENT MANUFACTURED A CRIME TO ENTRAP DEFENDANT**

### **1. IN 2009 BBPD WAS A CESSPOOL OF INCOMPETENCY AND LAWLESS BEHAVIOR**

#### **a. Anarchy Governed Supreme at BBPD**

It is standard practice for a police department to have a collective set of policies and procedures that define how officers are to conduct themselves in all aspects of their job. *Declaration of Williams*. These policies are typically encompassed in a policies and procedures manual that all department employees possess a hard copy of for easy reference. *See Declaration of Williams*. BBPD had no such policies and procedures manual in 2009 during the Dippolito investigation, making it much easier to engage in nefarious police practices. Instead, BBPD sporadically came out with a directive, which served to codify an order from the chief or mayor related to a specific incident or issue. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015), P. 86, lines 2-5*. When issued, a directive was deemed an actual policy of the police department. *Id.* at lines 16-18. A directive, or order, equated to a policy and procedure that employees within the department needed to follow. *Id.* at 19-22; *See Exhibit 2, Immler deposition transcript, p. 7 lines 1-4*. Rather than provide every employee with a copy of all directives in a paper format for easy reference, BBPD provided all directives in an electronic format. *See Exhibit 1, Deposition Transcript of Ranzie (Oct.*

19, 2015), P. 87, lines 4-6. There was no explanation or training provided when a new directive was issued. *Id.* at 10-16. There was also no oversight to ensure directives were understood or followed. That chaos facilitated BBPD engaging in egregious police practices during the Dippolito investigation.

When Shihadeh walked into the BBPD in July 2009 with his murder for hire story, he entered a police department that had no formal training on informants and little experience in investigating a murder for hire. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 13, lines 1-8; See Exhibit 3, Sheridan Deposition Transcript P. 36, lines 12-13.* Sgt. Sheridan admitted that during his time at BBPD he had only conducted one or two murder for hire cases and during both of those investigations there were no cameras rolling as there were in the Dippolito investigation. *Id.* at 12-13 & 19-20. Despite the department's utter lack of experience, BBPD chose to invite COPS to document their investigation of Dippolito's alleged plot. The department made obtaining footage for the show and fame for itself a priority over conducting a legitimate and proper investigation into Shihadeh's claims. Despite having a 20 year veteran in its midst with approximately 300 hours in specialized training on how to work with informants and having worked with 100 informants, BBPD chose to place Detective Moreno, a comparative rookie cop with no experience working with informants or murder for hire plots, as lead detective on the case. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 6, lines 9-11; P.17, lines 4-5.* Sheridan selected an inexperienced Moreno for the job because he knew he could get Moreno to manipulate Shihadeh to coerce Dippolito to go through with the plan. Sheridan knew he wouldn't be able to lie and break the rules with Ranzie.

**b. Former BBPD Sgt. Ranzie Outlines BBPD'S Lack of Training**

**i. Sgt. Ranzie's Background and Experience**

Ranzie began his law enforcement career in New York City at the New York City Housing Police Department in 1984. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 11, lines 8-11.* In 1988, after four years at the NYC Housing Police Department, he began his lengthy tenure at BBPD. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 6, lines 9-10 and P. 11, lines 10-14.* After only three years at BBPD, Ranzie was promoted to sergeant in 1991. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 11, line 16.* In 1996, Ranzie became the sergeant assigned to be the supervisor in charge of BBPD's Vice Intelligence Narcotics Unit

("VIN"). See *Exhibit 2, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 14, lines 5-7*. Ranzie was terminated by BBPD in May 2013, coincidentally after the Dippolito trial was completed, and later reinstated in June 2014 following arbitration. See *Exhibit 2, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 6, line 11-15*. Then Chief Immler found Ranzie to be a "competent supervisor" who seemed to be a trustworthy person. See *Exhibit 2, Immler deposition transcript P.6, lines 3-7*.

**ii. Sgt. Ranzie's Training on Informant Usage v. BBPD's Lack of Training**

BBPD provided no training to its officers pertaining to the proper handling of informants during a criminal investigation. See *Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 13, lines 1-8; See Exhibit 2, Immler deposition transcript P. 8, lines 16-22*. Proper handling of informants was not part of BBPD initial training, nor was it a part of any specialized training since BBPD provided no specialized training to its employees. See *Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 13, lines 1-8 and P. 14, lines 13-17; See Exhibit 2, Immler deposition transcript P. 8, lines 16-22; P. 10, lines 23-25 & P. 11, lines 1-2*. In fact, if an officer wanted to be just a road patrol officer, there would be zero chance of the officer receiving any training related to the handling of informants. See *Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 13, lines 21-23*. All training, other than that given as part of an officer's initial training, was voluntary and conducted by different agencies throughout Palm Beach County, Broward County, local schools, and drug administrative schools. See *Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 13, lines 9-11 and P. 14, lines 21-25*. Knowing his goal of becoming a sergeant in charge of VIN, Ranzie began taking these specialized training courses in 1991 to be prepared for when there would be an opening in VIN. See *Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 15, lines 6-10*. "If you want to get it [promotion] strictly on merit you prepare your resume as I did for my career. I have been preparing it since the day I for hired." *Id. at lines 16-18*.

Ranzie began preparing his resume soon after beginning at BBPD by attending numerous schools throughout Palm Beach County and Broward County. See *Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 15, lines 10-11*. After being selected as the supervisor in charge of the VIN Unit in 1996, he continued to obtain specialized training on informants by going to outside schools and training administered by the Palm Beach County Sheriff's Office. *Id. at lines 14-18*. From 1996 onward, Ranzie received 300 hours on informant related training. His interaction with

informants was substantial by 2009. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 17, lines 4-5.*

**Q. Can you estimate for me about how many informants you directly worked with?**  
**A. Probably 100.**

*See Exhibit 2, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 22, lines 1-3.*

Ranzie was the only member of the BBPD with approximately 300 hours of specialized training on the use of informants. He knew and understood proper protocol when utilizing an informant and the importance of monitoring and supervising the informant. He cared about getting to the bottom of the murder for hire story, not about being on television. The most experienced sergeant on informants has lambasted BBPD, going item by item into all their violations of policy and egregious misconduct. An in depth analysis of violations follows below.

## **2. EGREGIOUS MISCONDUCT BY LAW ENFORCEMENT BEFORE THE INVESTIGATION WAS UNDERWAY**

“This department’s operational decisions and actions regarding the use of confidential informants must keep the safety of involved persons a top priority, and agency personnel should exercise the utmost care and judgment in order to minimize the risk of harm to persons involved.”  
*Exhibit 4, BBPD “Informants” Index Code 1622, Effective 22 June 2009.*

From the onset of their investigation into the alleged murder for hire plot directed at Dippolito, BBPD exercised no semblance of care or judgment. It was quite the opposite as BBPD ignored all department directives, due diligence and canons of decency and justice as it salivated at the opportunity to manufacture sensational and salacious allegations to gain publicity and fame through documenting the “investigation” for COPS reality show. This blurred tunnel vision replaced a legitimate and credible criminal investigation with a casting call for COPS television show with Dippolito as BBPD’s lead actress.

### **a. BBPD’s Violated Its Own Directives On Using an Informant**

In using an informant, BBPD states its first priority is to “preserve the safety of the confidential informant, law enforcement personnel, the target, and the public.” *Exhibit 4, BBPD “Informants” Index Code 1622, Effective 22 June 2009.* Members of the department, prior to

utilizing the informant shall be provided with training in applicable department directives. *See Exhibit 4, BBPD "Informants" Index Code 1622, Effective 22 June 2009.*

Here, other than Ranzie, there is no evidence of Sheridan, Moreno, or Brown being adequately trained in the applicable BBPD directives prior to retaining Shihadeh as an informant. In fact, all evidence points to the contrary – that no BBPD personnel involved in this investigation, other than Ranzie, had any knowledge of the applicable informant directives that needed to be followed. The sheer number of directives violated at the pre- investigation phase is further proof of their lack of training.

At the time Shihadeh entered BBPD with his murder for hire story, Ranzie had over 300 hours of informant related training and had worked with 100 informants, while Moreno had no training and had never worked with an informant. *See Exhibit 1, Ranzie Deposition (Oct. 19, 2015) P. 17, lines 4-5; P. 22, lines 1-3.*

**I mean, we run the show, not the bad guy. That is the biggest problem that I found with a lot of inexperienced police officers is they allow the situation to dictate them. No, I'm in control. You go on my time, I'm not going on your time.**

*See Exhibit 1, Ranzie deposition transcript P. 66, lines 17-20.*

The difference between Ranzie being in charge and Moreno being in charge, is just that stated above – Ranzie would have been in control of the situation while Moreno allowed the situation dictate what he did. Despite the discrepancy in experience between Ranzie and Moreno, and actually, because of this discrepancy, Ranzie was limited to rudimentary tasks during the investigation while Moreno was designated lead detective. *See Exhibit 1, Ranzie Deposition Transcript (Oct. 19, 2015) P. 6, lines 9-11; P.17, lines 4-5.*

BBPD detective Brown and others present at the initial CI interview lacked integrity and had no training and a complete disregard for proper police protocol. They conducted an initial three-hour interview of Shihadeh that was not recorded. *See Exhibit 5, Shihadeh deposition transcript P. 158-159. Declaration of Williams.* This egregious act was done so that BBPD could preview Shihadeh's version and only use the information they wanted in the subsequent taped interview to tailor it for a sensational COPS television episode. There is no evidence of what was said during this three-hour discussion and no way for Moreno, Sheridan, and others assigned to the case to know what was said. Even having previewed Shihadeh's statements, BBPD officers had to start the interview over and re-record the beginning because they were laughing so loudly when asking Shihadeh for the

details of his sexual history with Dippolito. *See Exhibit 5, Shihadeh deposition transcript* P. 151. This conduct proves that BBPD was not taking Shihadeh's allegation seriously. The Dippolito allegations were simply BBPD's golden ticket to publicity and fame via the COPS taping!

Detective Moreno was assigned to the case the day after Shihadeh first reported the alleged murder for hire plot to BBPD and after his initial interview was taken. He was not present at the initial interview conducted of Shihadeh by BBPD and did not even listen to the audio of the interview before directing Shihadeh to call Dippolito to set up a meeting. *See Exhibit 6, Moreno deposition transcript* P. 10, lines 1-7 and 20-22; P. 15, lines 23-25, P. 16, lines 1-2; P. 21, lines 13-23. In fact, at the time that Moreno ordered Shihadeh to set up a meeting with Dippolito at the Mobil gas station, he was not even aware of what Dippolito's last name was. *See Exhibit 6, Moreno deposition transcript* P. 15, lines 23-25; P. 16, lines 1-2; P. 21, lines 13-23. This is further proof of BBPD's blurred vision. Had Moreno obtained her last name, he would have seen that Dippolito had never been the subject of any previous or pending criminal investigation. Ranzie also admitted to participating in the Mobil gas station meeting between Shihadeh and Dippolito without knowing Dippolito's last name. *See Exhibit 7, Ranzie deposition transcript* P. 14, lines 23-24. The fact that the two main investigators planned an investigation and rushed a meeting between Shihadeh and Dippolito without even knowing her full name is clear evidence of an investigation lacking any integrity.

Even Sheridan admitted that while he was involved in the investigation he was not present at the initial CI interview conducted with Shihadeh and never listened to it. *See Exhibit 3, Sheridan deposition transcript* P. 20, line 25; P. 21, lines 1-11. This was only the second or third murder for hire case that Sheridan and BBPD had worked on and the first where cameras were rolling. *Id.* at P. 36, lines 12-13. BBPD should have been more vigilant in following its own directives if for no other reason than this was an out of the ordinary crime that the station was not well-versed in. Sheridan should have ensured Ranzie, Moreno, Brown and all others involved in the investigation were knowledgeable in the directives dealing with informants. However, he did not and the sham of an investigation continued in its downward spiral.

#### **i. Assessment of an Informant**

A potential informant must be assessed before he is retained by law enforcement. Among BBPD's own factors to be considered in the assessment are: 1) whether the person has shown any

indication of emotional instability, unreliability, or of furnishing false information; 2) the persons' criminal history and/or prior criminal record; and 3) whether the nature of the matter being investigated is such that the use of the informant is important to, or vital to, the success of the investigation. *Exhibit 4, BBPD "Informants" Index Code 1622*, Effective 22 June 2009. A 2013 directive adds one of the factors to assess in an informant is their "willingness to cooperate with the investigation". *Exhibit 8, BBPD "Informants" Index Code 1622*, Effective 6 June 2013. This was clearly added following the massive problems created in the instant investigation due to Shihadeh's constant unwillingness to cooperate and the inappropriate threats and coercion employed by BBPD to secure his cooperation. *See Exhibit 5, Shihadeh deposition transcript P. 131; See Exhibit 9, Shihadeh trial transcript P. 1722-1723, 1725, 1781, 1782, 1786-1788, and 1798.*

When using an informant, the first thing law enforcement must do is make a determination of whether law enforcement wants to use that person at all. *See Exhibit 1, Ranzie Deposition Transcript (Oct. 19, 2015) P. 21, lines 3-6.* "You got to vet people like everything else. You have got to look at validity, past reliability. Is this person coming out of left field. What is your motive." *Id.* at lines 8-10.

Shihadeh walked in to BBPD on July 31, 2009 and told police a crazy story about a woman he knew trying to kill her husband. He alleged the woman went to Rivera Beach and asked "Larry" who hung out at Shihadeh's store to kill her husband after her own attempts to poison him by putting antifreeze in his tea had failed. Rather than immediately assessing the potential informant and his story BBPD took Shihadeh's allegations as facts and quickly got the ball rolling in their elaborate storyline for COPS. Both Shihadeh and Detective Ranzie admitted that BBPD did nothing to follow up on the allegations that Dippolito approached someone at Rivera Beach about killing her husband. *See Exhibit 9, Shihadeh trial transcript P. 1809-1811; See Exhibit 7, Ranzie deposition transcript P. 12, line 25 and P. 26, lines 1-3.* Like the Rivera Beach allegations, the fantastic allegation that Dippolito attempted to poison her husband was also not investigated by BBPD. *See Exhibit 6, Moreno deposition testimony P. 74, lines 1-12.* Both of these allegations could have confirmed or denied Shihadeh's reliability and credibility as an informant, but BBPD had blinders on and was no interest in assessing Shihadeh's reliability since they were collaborating with COPS to direct a memorable episode at the expense of Dippolito's constitutional rights.

Furthermore, Shihadeh's emotional instability should also have been questioned when he admitted that he and Dippolito had been involved in an intimate relationship. Both Shihadeh and Moreno admitted in their testimony that BBPD officers knew of the sexual relationship that existed between Shihadeh and Dippolito. *See Exhibit 9, Shihadeh trial transcript* P. 1765-1767; *See Exhibit 6, Moreno deposition transcript* P. 23, lines 11-17. Rather than seeing Shihadeh's allegations about Dippolito as the act of a potential scorned lover and an indication of emotional instability or unreliability, BBPD used this sexual relationship to exploit Dippolito's trust in Shihadeh in order to manufacture a murder for hire storyline for COPS.

In addition to being ex lovers, Shihadeh claimed that Ms. Dippolito bought him a Range Rover which he sold. Despite knowing this, nothing was done to determine whether these items tainted Shihadeh's reliability. Ranzie admits that, "That doesn't disqualify him but that needed to be known up front because I think some leg work needed to be dug into...what was the money used for. How was the money used. What was his motivation. Is he involved in anything trying to set her up because he is mad at her now because now he is not with her" *See Exhibit 1, Ranzie Deposition Transcript (Oct. 19, 2015)* P. 51, lines 10-21. Ranzie goes on to give numerous examples of what BBPD should have done to dig into Shihadeh's claims: they could have gone back to the dealership where the vehicle was purchased to get records, there were also databases that would have allowed BBPD to search tags, VIN numbers, etc. *See Exhibit 1, Ranzie Deposition Transcript (Oct. 19, 2015)* P. 54, lines 17-20; P. 55, lines 13-16. Had he been the investigator in charge that would have been done. *See Exhibit 1, Ranzie Deposition Transcript (Oct. 19, 2015)* P. 55, lines 17-20. "That should have taken the time to be done. I don't know if they did, but they should have done that." *See Exhibit 1, Ranzie Deposition Transcript (Oct. 19, 2015)* P. 54, lines 22-24.

Another assessment factor that should have raised a red flag for BBPD was that Shihadeh had a checkered past, with a prior aggravated assault and domestic violence charges made against him. *See Exhibit 6, Moreno deposition transcript* p. 23, lines 4-9; *See Exhibit 5, Shihadeh deposition testimony*, P. 55-56. Not only did Shihadeh have a violent past, but he also carried a gun. Shihadeh alleged that the impetus for going to BBPD and reporting Dippolito was that she had tried to take the gun from his car, but he caught her. *See Exhibit 7, Ranzie deposition testimony* P. 16, lines 11-12; *See Exhibit 5, Shihadeh deposition transcript* P. 117. Knowing that Shihadeh, a convicted domestic violence offender, carried a gun, BBPD still had no problem believing his story

and sending him out unsupervised to bait Dippolito. Interestingly, Shihadeh released a gun to BBPD for over an hour and there is no evidence of Dippolito's fingerprints on the gun which should have signaled an immediate red flag that Shihadeh was not reliable. An adverse inference can be drawn by BBPD's silence that Dippolito's prints were never lifted from the gun. *See Exhibit 7, Ranzie deposition transcript* P. 82, lines 6-8.

In light of the information BBPD had when vetting and assessing Shihadeh, it should have been in contact with the State Attorney's Office throughout the investigation to ensure its integrity. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015)* P. 53, lines 5-11. This is also due to the fact that the vetting of an informant never ends; it is "a living document" that constantly changes. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015)* P. 56, line 12. If new information is acquired during the course of the investigation that may raise a red flag, BBPD would be required to conduct some additional vetting. *Id.* at lines 3-8. Here, it was learned Shihadeh had a domestic abuse charge against him and that he disclosed to others that he was working with BBPD as an undercover informant. *See Exhibit 1, Ranzie Deposition Transcript (Oct. 19, 2015)* p. 71, lines 18-23. This new information should have led BBPD to do additional vetting and reevaluate using Shihadeh as an informant because his actions jeopardized the integrity of the investigation. *See Exhibit 1, Ranzie Deposition Transcript (Oct. 19, 2015)* P. 72, lines 6-7.

## **ii. Enlisting an Informant**

"When a member establishes an informant he/she intends to use in current or future investigations, that member shall complete a *Confidential Informant Source Packet*, to include but not limited to: (1) *CI Code of Conduct*; (2) *General Release*; and (3) *Permission to Intercept Oral Communication*. *Exhibit 5, BBPD "Informants" Index Code 1622*, Effective 22 June 2009. Amongst other items that must be contained in the CI packet is the "Informant's involvement in police operations". *Exhibit 5, BBPD "Informants" Index Code 1622*, Effective 22 June 2009. "Prior to activating or employing the services of an informant, the proposed informant will be required to read, agree to abide by, sign and date a *Confidential Source Code of Conduct*." *Exhibit 10, BBPD "Informants" Index Code 1622*, Effective 23 July 2007. Furthermore, as part of the activation process...the potential informant will be fully debriefed by the sponsoring police officer and a supervisor. *Id.*

On July 31, 2009, Shihadeh spoke with Dippolito as was customary in their decade long friendship. Following his phone conversation with Dippolito, Shihadeh went to the BBPD. *See Exhibit 5, Shihadeh deposition transcript* P. 186. Shihadeh went to BBPD on July 31, 2009 for the sole purpose of getting police to speak to Dippolito about her alleged murder for hire plot. *See Shihadeh trial transcript* P. 1723 and 1781. He did not want to get Dippolito in trouble or be involved in any way beyond giving police a statement. *See Exhibit 9, Shihadeh trial transcript* P. 1722, lines 11-14.

**So I went and spoke to ‘em. And I explained to ‘em, I said, you know, I don’t want to get her in trouble. I don’t want my name out there. I don’t want anything.**  
*Id.*

In fact, Shihadeh admitted that he didn’t believe Dippolito to be a threat and he did not believe any crime had been committed at the time he went to BBPD. *See Exhibit 9, Shihadeh trial transcript* P. 1782, lines 7-13.

**Q. – were you of the impression that she wasn’t going to be arrested?**

**A. Yes.**

**Q. Based upon your actions?**

**A. I didn’t see a crime that was done yet, so I didn’t think it would be – that she was going to be arrested.**

*Id.*

All Shihadeh wanted was for police to speak with Dippolito. *Id.*

**Q. What was your intent in signing that [CI Packet]?**

**A. For me to talk to the officer and for them to help her. And that was pretty much it.**  
*See Exhibit 9, Shihadeh trial transcript* P. 1723, lines 20-21.

Coincidentally, Shihadeh’s intent in going to BBPD clearly falls in line with his plan to attempt to have a police officer interrogate Dippolito so that the videos they used for their reality show script looked more realistic. Astoundingly, Shihadeh believed his entire role and involvement in the so-called investigation of his allegations against Dippolito was to give a statement. *See Exhibit 9, Shihadeh trial transcript* P. 1725, lines 9-13.

**Q. All I want to know from this document is, what did you think your involvement – or what did you think your role was going to be the first night when you met with Detective Brown?**

**A. Just to give him a statement.**

*Id.*

At Shihadeh's initial meeting with BBPD Detective Brown and later Detective Moreno, lied to Shihadeh and told him that Dippolito would not be arrested. *See Exhibit 9, Shihadeh trial transcript* P. 1782.

**Q. And did the police ever tell you that she wouldn't be arrested?**

**A. I think so. Yes.**

*See Exhibit 9, Shihadeh trial transcript.* 1781, lines 24-25 & P. 1782, line1.

This is in direct violation of BBPD directive stating, "Informants will be advised at the outset that the information they provide may be used in a criminal proceeding..." *See Exhibit 4, BBPD "Informants" Index Code 1622, Effective 22 June 2009.* BBPD also did not inform him of their plan to take his allegations to a whole other level by investigating Dippolito and coercing Shihadeh to lure her to discuss the alleged murder for hire plot while secretly being videotaped for COPS. *Id.* Instead, police again lied to Shihadeh and obtained his signature on the CI agreement under false pretenses. By the time Shihadeh realized BBPD had lied to him, it was too late. Shockingly, BBPD stooped to the lowest level and threatened to prosecute Shihadeh if he did not continue to cooperate. *See Exhibit 9, Shihadeh trial transcript* P. 1725, lines 9-15 & P. 1933-1934, lines 9-14; *See Exhibit 5, Shihadeh deposition transcript* P. 131.

**Q. All I want to know from this document is, what did you think your involvement – or what did you think your role was going to be the first night when you met with Detective Brown?**

**A. Just to give him a statement. But then they said that I had to wear a wire or that I would get in trouble.**

*See Exhibit 9, Shihadeh trial transcript* P. 1725, lines 9-15.

**Q. Who threatened you with criminal prosecution if you didn't cooperate with the Boynton Beach Police Department?**

**A. They didn't – not like literally threatening. But they said that you could get in trouble for not, you know, telling and helping.**

*See Exhibit 9, Shihadeh trial transcript* P. 1933, lines 9-14.

**I said I don't want nothing to do with it, you know. They said, we have to put a wire on you. If you don't you'll get prosecuted in a court of law.**

*See Exhibit 9, Shihadeh trial transcript* P. 1934, lines 6-10.

After speaking with Shihadeh, BBPD detectives brought out the CI agreement. During his time with BBPD, Ranzie customarily sat with an informant to discuss the contents of the CI Packet.

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 20, lines 23-24.* Due to the importance of the packet's contents, he would review the CI Packet with the informant line by line to ensure the informant understood everything before signing. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 65, lines 7-11 & lines 13-18.* This was proper protocol.

By contrast, when Moreno brought out the CI packet, Shihadeh was not given time to review it, he did not know what was included in the CI agreement, Moreno only let him look at certain portions of the CI agreement, he was not told the gravity of the document he was being asked to sign, nor was he told the purpose of the CI agreement. *See Exhibit 9, Shihadeh trial transcript P. 1786-1788, P. 1798; See Exhibit 5, Shihadeh deposition transcript P. 131.* Even more egregious, was that BBPD detectives lied to Shihadeh in order to obtain his signature on the CI packet. Shihadeh was told that he needed to sign the document in order to remain confidential. *See Shihadeh deposition transcript P. 131.* He was further told, that he would not need to be involved in any way and that BBPD was not looking to arrest Dippolito. *See Shihadeh trial transcript P. 1782, 1786-1788.* Shihadeh had no idea that things would escalate to the extreme point that they did or that the allegations would lead to something so serious. *See Shihadeh trial transcript P. 1788, lines 5-9.*

**A. I didn't think they [BBPD] were going to take it to the next level**

**Q. You didn't think this was very serious did you?**

**A. No.**

*Id.*

His intent in signing the CI agreement was to remain confidential, to speak to police, and to get police to speak with Dippolito. *See Exhibit 5, Shihadeh deposition transcript P. 131; Exhibit 9, Shihadeh trial transcript P. 1723, lines 17-24.*

**Q. Okay. Why did you sign that [Confidential Informant Packet]? What was your intent in signing that?**

**A. For me to talk to the officer and for them to help her and that was pretty much it.**

**Q. It's a confidential source pack, did you want to remain confidential?**

**A. Yes.**

*Id.*

All Shihadeh wanted was for BBPD to talk to Dippolito. At this point, the investigation into Dippolito should have been aborted as the confidential informant had been lied to and coerced by

BBPD into signing the CI agreement under false pretenses. Failure to abort the investigation at this point was egregious misconduct that violated Dippolito's substantial due process rights.

**b. Florida Caselaw Has Required a Due Diligence Approach for the Use of Informants**

Florida courts have consistently found that certain type of conduct offends the canons of decency and fairness exemplified in the due process provision of Article 1, Section 9 of the Florida Constitution. *See Munoz v. State*, 629 So. 2d at 95-98. While courts look at the totality of the circumstances surrounding the use of an informant, there are some red flags early on in an investigation that courts have consistently taken into consideration in determining the propriety of using said informant. Among factors considered by the court at the early stages of law enforcement utilizing an informant are 1) the relationship, if any between the informant and defendant, 2) the criminal history of the defendant, 3) and whether the defendant was suspected of criminal activity or had a pending investigation against her. *See Dial v. State*, 799 So. 2d 407; *See State v. Anders*, 596 So. 2d 463. In the instant case, it is well established that the totality of the circumstances are evidence that BBPD objectively entrapped Dippolito.

The Court in *Dial*, found the facts of the case showed the government's actions had violated appellant's due process rights. *Id* at 409. Citing *Nadeau v. State*, 683 So 2d 504 at 505, the *Dial* court considered that a factual pattern in which the informant was an acquaintance of appellant's and where the appellant had no criminal history and was not suspected of any criminal activity supported the idea that the appellant's due process rights were violated. *Dial*, 799 So. 2d at 409. Similarly, the court in *State v. Anders*, found appellant's due process rights were violated where the informant was an acquaintance of appellant and appellant had no criminal history and was not involved in criminal activity. 596 So. 2d at 465.

Here, Shihadeh and Dippolito shared a decade long on again off again friendship that involved intimacy. The trust that existed in their relationship opened the door for Shihadeh to, at the behest of BBPD lure, trick, and entrap Dippolito into a murder for hire plot orchestrated by BBPD that she otherwise would not have been involved in. However, the relationship between Shihadeh and Dippolito should have deterred BBPD from utilizing Shihadeh as an informant since his existing relationship with Dippolito made her more vulnerable and susceptible to Shihadeh's

influence. Another huge factor that BBPD failed to investigate and consider was Dippolito not having a criminal history at the time Shihadeh came to them with his allegations. She also had no pending criminal investigation of any type against her. Most profound, BBPD's informant Shihadeh didn't believe Dippolito to be a threat! *See Exhibit 9, Shihadeh trial transcript P. 1781.* Any investigation should have been aborted at this moment in time. The failure to do so amounts to egregious misconduct that violated Dippolito's due process rights. See Declaration of Williams.

### **Moments During the Pre-Investigation When the Case Should have been Aborted**

Throughout the pre-investigation phase of this case, there were countless items that should have raised red flags in the minds of BBPD investigating officers that the information provided by Shihadeh was not reliable and credible. These collective red flags that were sufficient to require BBPD to abort its investigation are as follows:

- Informant Shihadeh had a criminal history that included charges of domestic violence;
- Dippolito had no criminal history and was not the subject of any criminal investigation;
- BBPD was aware that Shihadeh and Dippolito had a decade long friendship and sexual relationship;
- BBPD lied to Shihadeh and to coerce him to sign the CI agreement;
- Shihadeh told BBPD multiple times that he did not want to be involved in the investigation;
- Shihadeh did not believe Dippolito was a threat and did not want her arrested;
- There was a three-hour discussion that was not recorded between Shihadeh and members of BBPD.

## **3. EGREGIOUS MISCONDUCT BY LAW ENFORCEMENT DURING THE INVESTIGATION**

### **a. Shihadeh Should Have Been Removed From the Investigation As A CI Since He Did Not Want to Participate**

“An informant will be deactivated when he or she no longer has the potential or ability to furnish information or services of use to the Police Department; when he or she is no longer willing to cooperate with the Department...” *See Exhibit 10, BBPD “Informants” Index Code 1622, Effective 23 July 2007.* It is the responsibility of the controlling member, whenever the informant becomes unreliable, useless, dangerous, or otherwise undesirable, to document this on the confidential source packet, forward to supervisor in charge of informant files. The supervisor in

charge of informant files shall approve deactivation of informant. *Exhibit 4, BBPD "Informants" Index Code 1622, Effective 22 June 2009.*

**Q. ...when you were working with at least 100 informants over the career in law enforcement, did you ever have a situation where one of your informants told you point blank, Mr. Ranzie, I don't want to be involved in this investigation anymore?**

**A. Yes.**

**Q. What did you do?**

**A. I didn't let them be involved anymore.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 37, lines 9-16.*

During the course of the Dippolito investigation, Shihadeh told BBPD on numerous occasions that he did not want to be involved in the investigation. *See Exhibit 9, Shihadeh trial transcript P. 1727, 1783-1785, 1891-1893, 1934-1935; See Exhibit 5, Shihadeh deposition transcript P. 139.* BBPD's own directives tell BBPD personnel involved in this case that an informant must be deactivated when he is no longer willing to cooperate or is undesirable. See Declaration of Williams. Here, Shihadeh should have been immediately deactivated as an informant and removed since he conveyed numerous times to BBPD his desire to not be involved. *See Exhibit 9, Shihadeh trial transcript P. 1727, 1783-1785, 1891-1893, 1934-1935; See Exhibit 5, Shihadeh deposition transcript P. 139.* From the onset, Shihadeh told law enforcement that he did not want to be involved in any investigation. When he went into the police station on July 31, 2009, he did not want to get Dippolito in trouble or be involved in any way beyond giving police a statement. *See Exhibit 9, Shihadeh trial transcript P. 1723, lines 17-24.*

**Q. Okay. Why did you sign that [Confidential Informant Packet]? What was your intent in signing that?**

**A. For me to talk to the officer and for them to help her and that was pretty much it.**

**Q. It's a confidential source pack, did you want to remain confidential?**

**A. Yes.**

*Shihadeh Exhibit 9, trial transcript P. 1723, lines 17-24.*

BBPD told Shihadeh that he would not be involved in the investigation and that BBPD was not looking to arrest Dippolito. *See Exhibit 9, Shihadeh trial transcript 1781, lines 24-25 & P. 1782, line1.*

**Q. And did the police ever tell you that she wouldn't be arrested?**

**A. I think so. Yes.**

*See Exhibit 9, Shihadeh trial transcript. 1781, lines 24-25 & P. 1782, line1.*

Shihadeh had no idea that things would escalate to the extreme point that they did or that the allegations would lead to something so serious. *See Exhibit 9, Shihadeh, trial transcript* P. 1786-1788. BBPD did not inform him of its plan to use him to lure Dippolito to discuss the alleged murder for hire plot while secretly being videotaped for COPS. *Id.* This was an intentional and deliberate act of BBPD to coerce Shihadeh to entrap Dippolito for their own reality show aspirations. By the time Shihadeh realized BBPD lied to him it was too late. It was like an avalanche. BBPD threatened to prosecute Shihadeh if he did not continue to cooperate. *See Exhibit 9, Shihadeh trial transcript* P. 1785, lines 9-15 & P. 1933, lines 9-14; *See Exhibit 5, Shihadeh deposition transcript* P. 131.

**Q. All I want to know from this document is, what did you think your involvement – or what did you think your role was going to be the first night when you met with Detective Brown?**

**A. Just to give him a statement. But then they said that I had to wear a wire or that I would get in trouble.**

*See Exhibit 9, Shihadeh trial transcript* P. 1785, lines 9-15.

**Q. Who threatened you with criminal prosecution if you didn't cooperate with the Boynton Beach Police Department?**

**A. They didn't – not like literally threatening. But they said that you could get in trouble for not, you know, telling and helping.**

*See Exhibit 9, Shihadeh trial transcript* P. 1933, lines 9-14.

Not only was this conduct by BBPD of threatening and coercing Shihadeh illegal and against BBPD policy, but in Ranzie's own words, "Again, there is no good from that." *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015)* P. 40, line 6. It directly compromises the integrity of the investigation for a member of law enforcement to threaten an informant with arrest or prosecution. Ranzie could not stress that enough during his deposition:

**You don't force someone to do something against their will...No good will come of it.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015)* p. 41, lines 1-4.

**Because right now the person is telling you they don't want to do it. I'm coercing them or forcing them to do it. I'm compelling you to do it with no reasoning other than on greed to make a case. So now the integrity is all in jeopardy.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015)* P. 41, lines 9-12.

**Again, because when you're forcing someone to do something against their will number one, you're breaking the law as police.**

*Id.*

As a direct result of BBPD threatening him, Shihadeh threatened Dippolito to continue with the script inside Chili's to protect himself from going to jail, compromising the investigation.

Even after signing the CI agreement under false pretenses, Shihadeh continued to tell BBPD detectives throughout the investigation that he did not want to be involved. *See Exhibit 9, Shihadeh trial transcript* P. 1727, 1783-1785, 1891-1893, 1934-1935; *See Shihadeh deposition transcript* P. 139.

**And I called the officer several times. I told him, you guys can't keep calling me. Telling me to come to police station. I don't know what you guys are doing, but I don't want to wear a wire. I don't want anything to do with this. You know, you guys are supposed to call her and help her and that was it. And that's when I wanted it to end, right there.**

*See Exhibit 9, Shihadeh trial transcript* P. 1727, lines 8-16.

**I said, I want nothing to do with it. You know. What I said if what I said. And it kept on continuing ...**

*See Exhibit 9, Shihadeh trial transcript* P. 1784, lines 13-15.

**Q. And how did they – did you get into it with him then? You were talking about getting in an argument with somebody.**

**A. Yeah, a little bit. I said I don't want nothing to do with it. I don't want nothing to do with this no more.**

*See Exhibit 9, Shihadeh trial transcript* P. 1891, lines 14-19.

**I said I don't want nothing to do with it, you know. They said, we have to put a wire on you. If you don't you'll get prosecuted in a court of law.**

*See Exhibit 9, Shihadeh trial transcript* P. 1934, lines 6-10.

Shihadeh had already been lied to by BBPD when he first arrived at the station and told he would not need to be involved. *See Exhibit 9, Shihadeh trial transcript* P. 1786-1788. He believed his entire role in this investigation was to give police a statement and have them talk to Dippolito. *See Exhibit 9, Shihadeh trial transcript* P. 1722. However, there came a point soon after his signing of the CI agreement that he discovered the real role BBPD had for him in their investigation. *See Shihadeh Exhibit 9, trial transcript* P. 1727. Once Shihadeh became aware that BBPD planned on having him heavily involved in the investigation, he said he wanted out:

**And I called the officer several times. I told him, you guys can't keep calling me. Telling me to come to police station. I don't know what you guys are doing, but I don't want to wear a wire. I don't want anything to do with this. You know, you guys are**

**supposed to call her and help her and that was it. And that's when I wanted it to end, right there.**

*See Exhibit 9, Shihadeh trial transcript P. 1727, lines 8-16.*

Shihadeh could not have been more clear with BBPD, "I don't want anything to do with this." *Id.* At the very moment when Shihadeh explicitly communicated to BBPD that he did not want to be involved with the investigation, BBPD was required, according to its own directive, to deactivate him and remove him from the investigation. *Exhibit 10, BBPD "Informants" Index Code 1622, Effective 23 July 2007. Exhibit 4, BBPD "Informants" Index Code 1622, Effective 22 June 2009.* However, BBPD could in utter disregard of its own directive to ensure that the lead actor (Shihadeh) in their scandalous COPS murder for hire storyline stayed aboard.

Following his first communication with BBPD that he did not want to be involved, detectives told Shihadeh he needed to call Dippolito while wired so they could record it. They did not explain that this was part of Shihadeh's role as an informant. *See Exhibit 9, Shihadeh trial transcript P. 1783.*

**Q. So you knew if you were somehow going to wear a wire, you were somehow going to continue to participate in this thing, is that correct, sir?**

**A. No.**

**Q. No?**

**A. I just thought they wanted that one statement. And it was done from there.**

*See Exhibit 9, Shihadeh trial transcript P. 1783, lines 15-21.*

Shihadeh did not think his participation in this first call meant he was going to be involved in the entire investigation, "I just thought they wanted that one statement. And it was done from there." *Id.*

BBPD continued to harass and threaten Shihadeh since losing their lead actor in the Hollywood script for COPS would kill the entire show. Detectives Brown and Moreno consistently called Shihadeh to do one more thing. On August 1, 2009, Moreno had Shihadeh call Dippolito to set up a meeting at a Mobil gas station. Prior to the meeting, Shihadeh was again told he was needed at the police station. What he did not know was that police had installed a video camera in his car to capture the meeting. *See Exhibit 9, Shihadeh trial transcript p. 1784.* Following the initial meeting with Dippolito, Shihadeh again communicated to BBPD he did not want to be involved.

**"Q. So you're telling me that you made it clear to them [BBPD] that you didn't want to get involved?"**

**A. Yes.”**

See *Exhibit 9, Shihadeh trial transcript* P. 1784, lines 19-24.

Here again is another occasion when BBPD was required to deactivate Shihadeh’s role as its informant. However, instead of deactivating him and acting with some semblance of integrity, BBPD engaged in egregious misconduct by threatening Shihadeh to secure his continued cooperation, all at the expense of Dippolito’s right to due process afforded under Article 1, Section 9 of the Florida Constitution.

**“Q. All right. But, I guess what I want to get back to is, why did you believe that you could get prosecuted for this if you didn’t continue to work with them?**

**A. Because they [BBPD] told me I could.**

**Q. Okay. And did that scare you a little bit?**

**A. Yes.**

**Q. You certainly didn’t want to be arrested?**

**A. No.”**

See *Exhibit 9, Shihadeh trial transcript* P. 1893.

The court in *State v. Anders*, 596 So. 2d 463, held that “Florida precedent teaches that due process will not allow law enforcement officers to place informants under ultimatum and set them about the community to find other citizens to arrest.” *Id* at 465, citing *State v. Glosson*, 462 So. 2d 1082. In *Anders*, informant Jorge Livermore was given an ultimatum by the government – serve time in prison for a drug offense or help the government make additional arrests. 596 So. 2d at 463. In addition to this ultimatum, Livermore was given a performance deadline by which he had to obtain the arrests. *Id*.

Make no mistake about it that *Anders* is directly on point with what BBPD did to Shihadeh. BBPD gave Shihadeh an ultimatum when he informed them he did not want to be involved – help BBPD arrest Dippolito or face criminal prosecution. In *Anders*, law enforcement had no evidence against the defendant at that juncture, but coerced its informant to manufacture evidence. Here, BBPD coerced and threatened Shihadeh with prosecution unless he set up meetings to manufacture the evidence they needed for a crime that didn’t exist in order to secure the success of a salacious COPS episode. Furthermore, BBPD’s involvement with COPS placed a performance deadline that resulted in BBPD pressuring Shihadeh to get the information they needed from Dippolito at all

costs, forcing Shihadeh's continued cooperation in an investigation he repeatedly said he wanted nothing to do with.

**b. BBPD's Failure to Monitor and Supervise Shihadeh**

“When an informant's assistance goes beyond merely providing information and the informant actually participates in the investigation, i.e. making introductions between officers and suspects, making controlled buys of narcotics or stolen property, etc., the officer must control the informant and direct the informant's role/responsibility. *Exhibit 4, Index Code 1622*, Effective 22 June 2009.

The training Ranzie received on informants stressed that it's best the informant always be supervised and monitored. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 18, lines 7-10*. This is necessary to validate the information an informant is providing law enforcement. “At no time should an informant be in the field on their own willy nilly just doing their own thing.” *Id. at lines 12-14*.

Ranzie further explained in his deposition that,

**You are not to do – basically, it tells you [the informant] you can't do anything unless you're being supervised or controlled by one of us. That is in the package.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 19, lines 3-5.*

**So everything you do with an informant is critical that you're right there controlling.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 20, lines 8-10.*

**i. No Supervision of Shihadeh's Phone Calls**

Phone calls between an informant and suspect need to be recorded to preserve the integrity of the investigation. Informants cannot contact a suspect on their own without having a BBPD investigator present to control the conversation. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 65, lines 22-24*. See Declaration of Williams.

**We are listening to exactly what they're saying and now we're preserving evidence for later on so there is no key words about entrapment.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 45, lines 6-9.*

In addition to failing to remove Shihadeh as an informant, BBPD failed to supervise Shihadeh's actions. In his deposition, Sheridan admits he had no idea what Shihadeh was doing when he was not at the police station, he had no idea if Shihadeh was with Dippolito, and worse of all, he had no idea if Shihadeh was communicating with Dippolito during the times he was not in the presence of BBPD officers. *See Exhibit 3, Sheridan deposition transcript*, P. 34, lines 1-3, 4-6, and 19-23. However, despite all these instances where Shihadeh was admittedly not supervised, Sheridan further concedes that it is the policy and procedure of BBPD to not leave an informant unsupervised when communicating with a suspect. *See Exhibit 11, Sheridan trial transcript* P. 2498.

**Q. Are you aware of phone records in this case that demonstrate substantial contact between Ms. Dippolito and Mr. Shihadeh when he was not monitored by the police?**

**A. No I'm not.**

**Q. Would you frown upon that?**

**A. Yes**

*See Exhibit 11, Sheridan trial transcript* P. 2498, lines 7-13.

Sheridan goes on to add that Shihadeh as an informant cannot initiate calls to the defendant without BBPD's supervision, yet evidence before the court demonstrates 576 calls made by Shihadeh to Dippolito between August 1-5, 2009 that were unsupervised and not recorded. *See Declaration of Dippolito & Exhibit 12, Phone Records of Dippolito*.

Between August 1-5, 2009, Shihadeh made a series of phone calls to Dippolito while not in the presence or under the supervision of BBPD. *See Exhibit 5, Shihadeh deposition transcript* P.183. On August 1<sup>st</sup> alone, there were six calls between 12:53 p.m. and 4:20 p.m. *Id.* Shihadeh stated that he made these calls at the direction of BBPD detectives, but there is no audio of these calls and no member of BBPD was present when the calls were made. *Id.*

Without a recording of these phone calls between Shihadeh and Dippolito, there is no way to know what was being said between them - whether Shihadeh threatened or coerced Dippolito, whether Dippolito had chosen not to go forward with the plan, or if Shihadeh's conduct amounted to entrapment. Ranzie has said this was against policy and the calls should have been recorded to preserve the investigation's integrity. The fact that they were not recorded was egregious misconduct and a violation of Ms. Dippolito's due process rights.

**Q. They should have been recorded, right?**

**A. Yes.**

**Q. Why so?**

**A. To preserve it, to have it for integrity for evidence so that there would be no speculation as to what these phone calls were motivated by.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 49, lines 18-23.*

Moreno conceded that BBPD “could have” given Shihadeh a device to make sure there was a recording of any the calls with Dippolito when BBPD was not present, but BBPD didn’t give him the device. *See Exhibit 6, Moreno deposition transcript P. 41, lines 3-8.* A crucial call between Dippolito and Shihadeh following the meeting with “hitman” Jean was allegedly not recorded. *See Exhibit 6, Moreno deposition transcript P. 47, lines 12-14.* During this call Dippolito complained to Shihadeh about Jean and expressed her decision not to move forward. *Id.* BBPD recorded this call and chose to destroy it because Dippolito stated she did not want to move forward. Had this come to light, BBPD’s moment in the international spotlight with COPS would have surely ended.

On a related note, Sheridan testified that while he did not know what Shihadeh was doing when away from the station, Shihadeh would have been told not to disclose his identity as a confidential informant to anyone. *See Exhibit 3, Sheridan deposition transcript P. 35, lines 16-22.* However, Sheridan did not know whether Shihadeh followed that directive. *Id.* Sheridan, the top guy in this investigation does not know if Shihadeh was doing, as BBPD told him and admittedly BBPD was not supervising Shihadeh to verify whether or not he was. *Id.* However, Shihadeh did not follow this directive and in fact when police installed a camera into his car without his consent or knowledge, Shihadeh revealed his identity as a confidential informant to several people that called him. *See Exhibit 3, Sheridan deposition transcript P. 35, lines 23-25.* While this video made up the part of the investigation’s evidence, Sheridan had no idea what the contents of the video were. *Id.* Sheridan was either completely inept or lying to cover up BBPD’s egregious misconduct in allowing the investigation to continue. The moment Shihadeh revealed his identity to others, the investigation was compromised beyond repair. Its credibility was tampered and BBPD should have aborted the investigation that very second. However, BBPD continued with the investigation, capturing every second of it for COPS.

**ii. Consistent with Florida Law, BBPD’s Failure to Wire Shihadeh Inside Chili’s Is Egregious Misconduct and Violates Dippolito’s Due Process Rights under Article 1, Section 9 of the Florida Constitution**

**Meeting with Dippolito at Chili’s**

Florida case law has found that acts of misconduct such as not supervising an informant and not wiring an informant or monitoring conversations between an informant and defendant constitute due process violations. *See Dial v. State*, 799 So. 2d 407; *See State v. Anders*, 596 So. 2d. 463. In *Dial*, the informant was not given guidance or limitations and her conversations were not monitored. 596 So. 2d at 409. The informant was left to her own devices. *Id.* at 408. Similarly, in *Anders*, the informant never wore a wiring device, was provided no guidance, and law enforcement conducted no surveillance or supervision of the informant when meeting with defendant. 596 So. 2d at 465. The court in *Anders* held, “Thus due process of law will not tolerate the law enforcement techniques employed in this case. Sending an untrained informant out into the community, with no control, no supervision and not one word of guidance or limitation about whom he may approach or what he should do was an invitation to trouble.” *Id.*

Here, in addition to case law favoring the supervision and monitoring of an informant, pursuant to its own directive, BBPD had a duty to control and direct Shihadeh. *Exhibit 4, Index Code 1622*, Effective 22 June 2009. While Sheridan concedes that it is the policy and procedure of BBPD not to leave an informant unsupervised, there are numerous instances where Shihadeh was unsupervised. *See Exhibit 11, Sheridan trial transcript* P. 2498. Clearly the most critical of these moments, was the meeting that Shihadeh had with Dippolito at Chili’s!

BBPD directive on Informants stated, “When using an informant, the officer must control the direction of the operation and the informant. The officer must never place himself/herself in the position of having to act when there is not sufficient manpower or equipment to ensure the credibility of the investigation and the safety of all parties involved.” *Exhibit 4, Index Code 1622*, Effective 22 June 2009.

On the day that Shihadeh met Dippolito at Chili’s, BBPD claimed there was a malfunction in the wiring device that rendered it useless. Sheridan knew Shihadeh did not have a listening device when he entered Chili’s, a clear violation of BBPD policy as Sheridan himself testified to at trial. *See Exhibit 11, Sheridan trial testimony* P. 2498. Sergeant Bonafaire informed Ranzie that Shihadeh was not wired. Ranzie was immediately concerned and approached Sheridan to express his concerns. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015)* P. 32, lines 5-10. He expressed to Sheridan that BBPD could delay the Chili’s meeting by an hour or two in order to obtain equipment from Delray or the Sheriff’s Office, where they had contacts. *See Exhibit 1,*

*Deposition Transcript of Ranzie (Oct. 19, 2015) P. 32, lines 5-10; P. 33, lines 10-12. Sheridan said they could not delay and that even though Shihadeh was not wired they were going through with the meeting because “We’re on a schedule and we’re going.” See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 123, line 24. When Ranzie tried to persuade Sheridan to delay or abort the meeting until BBPD obtained another wiring device, he said, “It’s my fucken case.” See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 31, lines 14-15. Sheridan was on a schedule, the Cops show schedule. Ranzie said in his deposition,*

**In my opinion we could have delayed this.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 32, lines 23-24.*

**No question I felt confident in that we could delay it, but when I pushed and he said it’s his fucken case. I said, yes, sir.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 33, lines 4-6.*

In the quest of getting accurate information you would always want a meeting between the informant and suspect to be recorded. *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 31, lines 2-3.*

At the meeting at Chili’s, Dippolito expressed to Shihadeh that she did not want to move forward with things. *See Declaration of Dippolito.* At this point, Shihadeh, threatened harm to Dippolito and her family if she did not proceed with the script. Prior to the meeting, Moreno felt it was possible they were losing Dippolito and he needed to secure her continued participation in the plan because BBPD was too far-gone to lose their shot at COPS. *See Exhibit 6, Moreno deposition transcript P. 48, lines 22-25.* Moreno in turn pressured Shihadeh to secure Dippolito’s cooperation. Both Moreno and Ranzie admit that they have no idea what was discussed between Shihadeh and Dippolito while they were in Chili’s because Shihadeh was not wired, there was no recording, and inexplicably no BBPD personnel was placed inside Chili’s to monitor Shihadeh’s interaction with Dippolito. *See Exhibit 7, Ranzie deposition transcript P. 20, lines 16-18 and 19-23; P. 21, lines 7-18; See Moreno deposition transcript P. 32, lines 2-5 and 8-10; P. 52, lines 18-20; P. 53.*

**The problem, as you said not having him wired and not having audio, is we don’t know what he spoke to her about.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 30, lines 19-21.*

**Well, could he have threatened her in there. Could he have told her hey, you want to back out but you can't or I will kill your family. I said he could have done a lot of things.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 34, lines 10-13.*

Furthermore, Moreno now admits that Shihadeh should have been taped while inside of Chili's. *See Exhibit 6, Moreno deposition transcript P. 51, lines 5-6 and 15-17.*

The Chili's meeting between Shihadeh and Dippolito never should have taken place. BBPD's own directives states that the officer must never place himself in a situation where there is not sufficient equipment to ensure the credibility of the investigation. *Exhibit 4, Index Code 1622, Effective 22 June 2009.* The moment Ranzie discovered the audio device was not working the meeting should have been aborted. To send Shihadeh, an informant, into a meeting with Dippolito with no listening device compromises the integrity of the entire investigation as there is no way for BBPD officers to know what is being said, as both Ranzie and Moreno admitted to. Without a recording to confirm the of the conversation between Shihadeh and Dippolito BBPD knew full well that Dippolito was skiddish about moving forward and didn't want the public to know of exculpatory evidence because it would have killed the COPS Hollywood ending. This nefarious conduct goes beyond egregious misconduct and amounts to obstruction of justice.

**c. BBPD Never Received Consent from Shihadeh or Jean**

To further the egregious conduct employed by BBPD during this investigation, BBPD knowingly violated Florida's wiretap law in aims to incriminate Dippolito. Under Florida law § 934.03 (2)(c) "*Interception and disclosure of wire, oral, or electronic communications prohibited,*" it is unlawful for a law enforcement officer to intercept a communication without a warrant unless one of the parties to the communication has given prior consent to the interception and the purpose of the interception is to obtain evidence of a criminal act. Absent a finding the informant knowingly and voluntarily consented, all recorded communications must be suppressed under Florida law.

In *State v. Jones*, the Florida Court of Appeals affirmed the suppression of a taped conversation between the defendant and her friend because of police misconduct similar to the misconduct here. *State v. Jones*, 562 So. 2d 740, 741 (Fla. Dist. Ct. App. 1990). In *Jones*, the police went to the home of the defendant's friend and after approximately one hour, officers persuaded her to phone the defendant and discuss suspected criminal activity. *Id.* The friend testified she was

nervous, she was not read the consent form, which she eventually signed in the wrong place, she was frightened, and she was pressured into cooperating. *Id.* The defendant claimed that her friend was coerced into making the call and the trial court agreed and suppressed this conversation, because it was not voluntarily made. *Id.*

Shihadeh's testimony at trial and in his deposition falls far from the knowing and voluntary consent mandated by Florida law. Instead, Shihadeh testimony clearly demonstrates that the Boynton Beach Police Department intentionally and knowingly obtained his "consent" to wear a wire under false pretenses and coercion. First, before the investigation began, Shihadeh repeatedly stated, "he wanted BBPD to help Dalia" and that is why he went into the station in the first place; he did not believe anything criminal had occurred. *See Exhibit 9, Shihadeh trial transcript* P. 1723, line 22.

**Q. Okay. Why did you sign that [Confidential Informant Packet]? What was your intent in signing that?**

**A. For me to talk to the officer and for them to help her and that was pretty much it.**

**Q. It's a confidential source pack, did you want to remain confidential?**

**A. Yes.**

*Exhibit 9, Shihadeh trial transcript* P. 1723, lines 17-24.

Three BBPD officers, questioned Shihadeh for three hours. *See Exhibit 5, Shihadeh deposition transcript* P. 158-159. Shihadeh believed his involvement was to "give one statement" to the police and before he knew what was going on, BBPD said he MUST wear a wire or he would get in trouble. *See Exhibit 9, Shihadeh's trial transcript* P. 1724-25.

**Q. All I want to know from this document is, what did you think your involvement – or what did you think your role was going to be the first night when you met with Detective Brown?**

**A. Just to give him a statement. But then they said that I had to wear a wire or that I would get in trouble.**

*See Exhibit 9, Shihadeh trial transcript* P. 1725, lines 9-15.

Shihadeh told BBPD "I don't want to wear a wire" and implored them just to "call Dippolito and help her." *See Exhibit 9, Shihadeh trial transcript* P. 172. After BBPD convinced Shihadeh to make this one phone call at the station, Shihadeh stated he did not want to come back. *See Exhibit 9, Shihadeh trial transcript* P. 1784. At this point, it was clear Shihadeh did not want to be wired or be a part of BBPD's investigation of Dippolito. Shihadeh's involvement in BBPD's investigation should have been aborted at this point.

Second, just as occurred in *Jones*, in desperation to obtain evidence against Dippolito, BBPD failed to carefully review the confidential informant package in which Shihadeh was required to consent to wear a wire. In fact, Shihadeh explicitly states on page 31, of his deposition that his intent in signing the document that was placed in front of him was to “remain anonymous and did not know he was signing a CI agreement.” Detective Moreno “roughly said this is for that, and skipped that page” when reviewing the confidential informant packet. *See Exhibit 9, Shihadeh trial transcript* P.1788. Shihadeh told BBPD hat he did no want to get involved, and officers said it was okay and he did no have to be involved. *See Exhibit 9,Shihadeh trial transcript* P. 1784-85.

**“Q. So you’re telling me that you made it clear to them [BBPD] that you didn’t want to get involved?”**

**A. Yes.”**

*See Exhibit 9,Shihadeh trial transcript* P. 1784, lines 19-24.

Far from consenting to wear a wire, Shihadeh states on page 131 of his deposition, that he was “lied to and told he was going to be protected” if he signed the document in front of him. Shihadeh testified he did not think what he was signing was that important and that he trusted the police and trusted they would help Dalia if he signed it. *See Exhibit 9, Shihadeh trial transcript* P. 1723. Shihadeh could not have voluntarily consented to wear a wire if he did not even know the true contents of the document he was signing. Shihadeh only signed the packet, because he thought he was remaining anonymous, and nothing more.

Furthermore, while the investigation was undergoing, BBPD exerted pressure on Shihadeh to wear a wire and incriminate Dalia on multiple occasions. BBPD’s conduct extends far beyond the one hour of pressure exerted over the defendant’s friend in *Jones*. First, after forcing Shihadeh to wear a wire at the police station and making him sign a consent form under false pretenses, Detective Moreno pressured Shihadeh by calling him and repeatedly stating “We need you, We need you, come in.” *See Exhibit 9,Shihadeh trial transcript*, P. 1784. Again, Shihadeh said he wanted nothing to do with the investigation. *See Exhibit 9,Shihadeh trial transcript* P. 1784. However, BBPD was so eager that Shihadeh states BBPD called him 10 times a day. *See Exhibit 9, Shihadeh trial transcript* P. 1891-1892.

**Q. How is – let me ask it this way, how is it that you came to understand that you might be prosecuted criminally?**

**A. Because if I didn't do what they were telling me to do with the wires and meeting up with her; and they were calling me constantly, like ten times a day to call her, make her call me or meet up.**

*See Exhibit 9, Shihadeh trial transcript P. 1892, lines 5-12.*

Second, Detective Moreno also went to Shihadeh's home and told Shihadeh he had to meet Dippolito at a Mobile Gas station. *See Exhibit 9, Shihadeh trial transcript P. 1727.* Third, on August 2, 2009, Shihadeh was ordered to call Dippolito and have her meet him at a Chili's restaurant the next day, in which he was to lead Dippolito to meet a fake hit man. Shihadeh told BBPD, "I don't want to do this, do it yourselves". *See Exhibit 5, Shihadeh deposition transcript P. 139.* In response, he was told by BBPD, "You have to do it." Shihadeh tried to back out, but BBPD exerted its final attempt at coercion by threatening to prosecute him if he did not help them. *See Exhibit 9, Shihadeh trial transcript P. 1782.* Shihadeh testified he was scared and did not want to be arrested. *See Exhibit 9, Shihadeh trial transcript P. 1893.* After threatening to arrest Shihadeh, unbeknownst to him, BBPD also wired his car before he went to Chili's without his consent. *See Exhibit 9, Shihadeh trial transcript P. 1731.* Shihadeh stated he did not know his car was wired. *See Exhibit 9, Shihadeh trial transcript P. 1731.*

**i. BBPD's Undercover Officer Did Not Consent to Appear on the COPS TV Show**

Not only did Dippolito not sign a COPS waiver form to appear on TV, BBPD's own undercover officer, Widy Jean, also did not sign a waiver form to appear on COPS. *See Exhibit 13, Jean deposition transcript P. 15, lines 3-5.* Surprisingly, this is at odds with all the other BBPD's officers who in fact did sign a consent form to appear on COPS. *Id.* BBPD made sure that all of its other officers signed the COPS waiver form, but not the only officer who made contact with Dippolito. Dippolito and Jean were the only two people present inside the truck where the conversation regarding an alleged murder for hire occurred, and it is very suspicious and disturbing that these are the only two people who did not sign a COPS waiver form. This consistent with the Jones holding, the BBPD misconduct violated Dippolito's due process rights. Further, the Jean video is "fruit of the poisonous tree." The tape should have never been evidence since it resulted from BBPD's egregious misconduct that violated Dippolito's due process rights as afforded by Article 1, Section 9 of the Florida Constitution.

BBPD's failure to obtain Jean's consent was not a coincidence, but an intentional oversight. It was no coincidence that Jean fled to Atlanta, quit his job at BBPD, and disappeared for two years after this footage was released. Even though COPS should not have aired its footage absent valid waivers, the due process violation stems from BBPD's intentional disclosure of the footage. BBPD acted egregiously when it uploaded this footage on YouTube within minutes of the staged crime scene. BBPD uploaded footage of the staged crime scene knowing full well its own undercover officer did not sign a waiver and neither had Dippolito.

By virtue of BBPD's intentional release of unauthorized footage, will never receive a fair trial.

**d. BBPD Created a Solicitation Offense Where None Existed**

The Court in *Dial*, quoting *Jacobson v. United States*, 503 U.S. 540, found, “ ‘When the Government's quest for conviction leads to the apprehension of an otherwise law-abiding citizen who, if left to his own devices, likely would have never run afoul of the law, the courts should intervene.’ ” 799 So. 2d 407 at 408 *citing* 503 U.S. at 553-554.

Here, Shihadeh came to BBPD with nothing more than a flimsy allegation that a woman he knew was going to kill her husband. *See Exhibit 9, Shihadeh trial transcript* P. 1722-1723. He did not believe Dippolito to be a threat at the time, did not believe a crime had been committed, did not want her to be arrested or investigated, and only wanted police to talk with her and try to help her. *See Exhibit 9, Shihadeh trial transcript* P. 1781-1782. Shihadeh even admitted that at the time he went to BBPD he did not believe a crime had been committed. *Id.* Dippolito had no criminal history and was not the subject of any pending criminal investigation.

**Q. – were you of the impression that she wasn't going to be arrested?**

**A. Yes.**

**Q. Based upon your actions?**

**A. I didn't see a crime that was done yet, so I didn't think it would be – that she was going to be arrested.**

*See Exhibit 9, Shihadeh trial transcript* P. 1782, lines 7-13

However, BBPD did not care about any of these facts. The phrase “murder for hire” was just what the department needed for its upcoming COPS episode. BBPD acted quickly to coerce Shihadeh into signing the CI agreement so they could begin to script their ticket to fame. *See Exhibit 9, Shihadeh trial transcript* P. 1782-1783, 1786-1788. The very next day from when Shihadeh first

entered BBPD, Detective Moreno pressured him into being wired to call Dippolito to set up a meeting at a Mobil gas station. *See Exhibit 9, Shihadeh trial transcript* P. 1730-1731.

The second meeting occurred at Chili's. Again it was BBPD that coerced Shihadeh to call Dippolito and tell her to meet him at Chili's because he had found a hitman in order to manufacture a crime. *See Exhibit 5, Shihadeh deposition transcript*, P. 197. BBPD told Shihadeh to tell Dippolito a hitman wanted to meet with her, Dippolito did not ask to meet with a hitman. On the day that Shihadeh met Dippolito at Chili's, BBPD claimed there was a malfunction in the wiring device that rendered it useless. *See Exhibit 7, Ranzie deposition testimony* P. 18, lines 1-7. Ranzie said Shihadeh went to the meeting with Dippolito without an audible listening device attached to him. *Id* at lines 1-7 and 8-12. However, Shihadeh's version is at odds with BBPD since he testified that he was wired. *See Exhibit 9, Shihadeh trial transcript* P. 1894-1897.

**Q. And when you were in the restaurant with her, Friday's or Chili's; do you know if you were wired then?**

**A. Yes, I was wired. Because we were – I went straight from the police station. I met up with her – they wired me at the police station, I met up with her.**

*See Exhibit 9, Shihadeh trial transcript* P. 1894-1895, lines 21-25 and 1-2.

During the meeting at Chili's, Dippolito expressed to Shihadeh that she did not want to move forward with things. *See Declaration of Dippolito*. It was then that Shihadeh threatened harm to Dippolito and her family if she did not go through with things, just like BBPD had done to him. *See Declaration of Dippolito*. Prior to the meeting, Moreno felt it was possible they were losing Dippolito and he needed to secure her continued participation in the plan because BBPD was too far-gone to lose their shot at COPS. *See Exhibit 6, Moreno deposition transcript* P. 48, lines 22-25. Moreno in turn pressured Shihadeh to secure Dippolito's cooperation. The truth of the matter is that Shihadeh was wired at the Chili's meeting, but BBPD knew that, and BBPD intentionally destroyed the tape because it revealed that Dippolito had committed no solicitation and was in fact backing out. *See Exhibit 7, Ranzie deposition transcript* P. 20, lines 16-18 and 19-23; P. 21, lines 7-18; *See Exhibit 6, Moreno deposition transcript* P. 32, lines 2-5 and 8-10; P. 52, lines 18-20; P. 53. The State Attorney's Office has since informed Dippolito's counsel that there is no record of a repair for a malfunctioning listening device. *See Declaration of Claypool*.

The third meeting BBPD sets up to entrap Dippolito was with Jean, an undercover police officer posing as a hitman. BBPD had Jean call Dippolito to let her know he was going to be taking

care of whatever request she was going to make. *See Jean deposition transcript* P. 11, lines 8-14. Here, again, it was BBPD that was encouraging and enticing the commission of the crime when Dippolito herself has not made a single move to instigate and solicit the killing of her husband. She had made no request.

On August 3, 2009, Jean reaches out to Dippolito by calling her. During that first call, Jean tells Dippolito she needs to bring money and keys to her house to their meeting. *See Exhibit 13, Jean deposition transcript* P. 11, lines 20-25; P. 12, lines 1-4. Again, it is BBPD trying to manufacture a crime that did not exist. Jean kept the first phone call short at the direction of Moreno and just told Dippolito what he needed from her. *See Exhibit 13, Jean deposition transcript* P. 12, lines 14-15. It is blatantly obvious that Moreno instructed Jean to keep the conversation short so that Dippolito would not be able to back out. The in person meeting was scheduled for that same day. It is again BBPD manufacturing the solicitation, not Dippolito.

During his meeting with Dippolito, Jean is clearly trying to entice her to commit a crime. Jean accidentally told Dippolito that he knew her address, without her having given it to him. *See Exhibit 13, Jean deposition transcript* P. 41, lines 11-12 and 14-15. He tried to recover by telling Dippolito that he had gotten ahead of himself. *Id.* Jean is ahead of himself during the entire meeting, acting as the aggressor. At the meeting, like on the phone, it is again Jean that brings up the murder for hire and asks Dippolito where she wanted it done. *See Jean deposition transcript* P. 26, lines 2-6. Dippolito responds by saying that's what she wanted to talk to him about. *Id.* However, it is not discussed. Jean testifies that after the meeting, he called her again on August 4, 2009, because at the meeting they had not decided when or how the murder was going to happen. *See Jean deposition transcript* P. 21, lines 11-15. Jean admits he called Dippolito that second time, "...to let her know where and how it's going to happen and what I needed from her." *Id.* Jean's testimony is telling of the lengths BBPD went to manufacture a crime as quickly as possible. During the meeting between Jean and Dippolito no money is exchanged and Dippolito did not provide Jean with her house keys. *See Jean deposition transcript* P. 30, lines 9-10; *See Moreno deposition transcript* P. 36, lines 3-5. Furthermore, Jean asked Dippolito for the house's alarm code and she does not give it to him. *See Jean deposition transcript* P. 26, lines 8-10. These are all telling signs that Dippolito is not soliciting Jean or anyone else to murder her husband. However, these red flags were not enough for BBPD, and Jean continued to try and bait her.

Jean next brings up the \$1200 that Dippolito had given Shihadeh. *See Jean deposition transcript* P. 8, lines 23-25; P. 29, lines 1-8. Jean lies to Dippolito and tells her that he used the money to put things in place and pay people. *Id.* He is again the aggressor in this meeting, and he unilaterally brings up this money when Dippolito had made no mention of it. *Id.* Jean is manufacturing the crime and enticing and encouraging Dippolito to move forward rather than the other way around. When Jean again brings up payment, Dippolito tells Jean she's good for the money and would pay it afterwards. *Id.* At this point Jean and the rest of BBPD knew that Dippolito was not serious and should have aborted the investigation. This however, did not discourage Jean as he persisted and told Dippolito that he needed more money in order to buy a gun for the murder. *See Exhibit 13, Jean deposition transcript* P. 33, lines 8-10. Knowing that there is no gun to commit the murder, Dippolito still does not give or offer to give Jean money. *Id.* Jean proceeds to give Dippolito a general account of what he's been doing to prepare the murder, nothing specific. *Id.* Jean was priming the pump to get Dippolito to move forward, but she did not.

In one last ditch effort; Jean suggests making the murder look like a robbery. *See Exhibit 13, Jean deposition transcript* P. 35, lines 9-11. Dippolito tells Jean that her husband was planning on going to the bank to withdraw \$10,000 to pay his "partner". *Id.* This comment should have been dumbfounding to Jean if he was unaware of the script that the Dippolitos had planned with Shihadeh. An objective undercover hitman would have been beyond suspicious about the large withdrawal and asked about it. Jean, however, was not at all concerned with it. This was either because he knew of the script or his tunnel vision was so strong that he could think of nothing other than trapping Dippolito. Following their in person meeting, Dippolito initiates no contact with Jean, it is Jean that contacts her. *See Exhibit 13, Jean deposition transcript* P. 48, lines 8-10. During their last conversation, Jean tells Dippolito he is going to do it at her house and she needs to go the gym in the morning. *See Jean deposition transcript* P. 42, lines 24-25.

Throughout the investigation it was BBPD through Shihadeh and its own undercover officers that attempted to entice and encourage Dippolito to become involved in the commission of a crime. Dippolito herself did not solicit the services of a hitman, did not pay a hitman, did not provide keys to her house or alarm code, and did not even provide her address. All these things Jean tried to elicit from her with no success. Similar to *Dial*, BBPD tried to secure a conviction from Dippolito when it was their own actions that instigated the crime. Had BBPD not set up all these

meetings to try entice and solicit Dippolito, left to her own devices she would never have run afoul of the law.

**e. BBPD Destroyed Critical Audiotape That Exculpated Dalia Dippolito**

In their depositions Sheridan, Moreno, and Ranzie, have stated that Shihadeh was not wired when he entered Chili's due to the wiring device malfunctioning. However, Shihadeh is adamant in his deposition that he was wired. Shihadeh goes so far to explain that prior to the meeting at Chili's he went to BBPD for the purpose of being wired and then went to meet Dippolito at the restaurant. This is a colossal inconsistency with BBPD's self-serving version.

Sheridan is not a credible source for such critical information. Following the Dippolito investigation he was the subject of an Internal Affairs investigation due to his falsification of reports in the case. Sheridan has admitted in his deposition that he falsified a portion of the police report he created in the Dippolito investigation. In view of Sheridan's admitted fraud, he cannot be trusted and he is the only source confirming that Shihadeh was not wired in Chili's. Given the conflict between the deposition testimony of Sheridan and Shihadeh, it is Shihadeh that is to be trusted. Shihadeh has no incentive to lie about whether he was wired. On the other hand, Sheridan has 100% incentive to lie because he has previously lied and that exculpatory evidence in that Chili's encounter between Shihadeh and Dippolito would have destroyed Sheridan's Hollywood ending on the COPS show.

While in Chili's, Shihadeh, having been threatened by BBPD with prosecution had to make Ms. Dippolito continue forward with the plan. When she expressed her resistance and decision not to continue with the plan, Shihadeh threatened to harm her and her family. Knowing that Shihadeh had a gun with him, Dippolito took this threat seriously and agreed to go with Shihadeh to meet Jean. The moment Sheridan and other BBPD officers heard Dippolito resist and tell Shihadeh she did not want to move forward with the plan, the investigation was over. There is no crime when the suspect says she does not want to commit the underlying illegal act. However, COPS was already following the investigation and for BBPD's sake, the sensational and scandalous investigation had to continue. This explains why BBPD intentionally destroyed the audio from Chili's that would have exculpated Dippolito and nullified BBPD's now five minutes of fame. Dippolito was to prove the egregious misconduct by showing the totality of the circumstances are in her favor; she has convincingly met this burden.

Adverse interest is the detrimental conclusion drawn by the fact finder from a party's failure to produce evidence that is within the party's control. That is what occurred in the Dippolito investigation – BBPD failed to produce evidence of the audio, and went so far as to destroy it, so that the fact finder had no choice but to side against Dippolito given BBPD's sensationalizing of the investigation and fabrication of a crime.

In *Guzman v. State*, the court held that the loss or destruction of evidence that is potentially useful to the defense violates due process only if the defendant can show bad faith on the part of the police or prosecution. Bad faith exists only when police intentionally destroy evidence they believe would exonerate a defendant. The presence of bad faith turns on the police's knowledge of the exculpatory value of the evidence at the time it was lost or destroyed. Here, BBPD knew the moment that Dippolito uttered to Shihadeh that she did not want to go forward with the plan that there was no crime and no storybook COPS ending. Dippolito telling Shihadeh she was no longer going to participate in the planned script exonerated her from any wrongdoing and most certainly from the crime of solicitation for which she was later charged and convicted. BBPD knowingly and intentionally destroyed the audio containing this exculpatory statement from Dippolito and in so doing contrived a disingenuous lie about the wire not working when no repair records exist of a malfunctioned wiring device. Immler even previewed and approved all footage used by COPS. *See Exhibit 2, Immler deposition transcript* P. 32, lines 7-14.

BBPD claimed the only wiring device they had for Shihadeh malfunctioned and that was the reason Shihadeh was not wired. However, Immler had no recollection of being told about a wiring device malfunction. *See Exhibit 2, Immler deposition transcript* P. 30, lines 11-14. Furthermore, if the wiring device, had malfunctioned, the device would have been sent for repairs. When equipment needed to be repaired there would be some sort of voucher or procurement form needed in order to get the equipment fixed. *Id* at lines 15-21. Although defense requested any and all records demonstrating repaired equipment in 2009, none was produced. *See Declaration of Claypool*. This is further proof that BBPD's allegation that Shihadeh was not wired due to an equipment malfunction was not true. Shihadeh was wired, but Dippolito's exculpatory statements forced BBPD to destroy the audio to keep things interesting for COPS.

BBPD knew that the audio of the Chili's meeting between Shihadeh and Dippolito exonerated Dippolito from any wrongdoing. Knowing this, they intentionally and in bad faith

destroyed the evidence that would have saved her from being convicted for a crime she did not commit.

**f. BBPD Staged a Crime Scene for Publicity**

Following the meeting between Jean and Dippolito, BBPD was busy orchestrating the last piece to their puzzle. Rather than apprehending Dippolito, or discussing the murder for hire plot with Mike Dippolito, BBPD staged a fake crime scene so they could have COPS and their own department film and air Dippolito's reaction to further sensationalize the Hollywood ending.

The fake crime scene was not necessary to the investigation. Ranzie himself wrote in his report, "Through the conversation at this meeting, probable cause for solicitation to commit murder was established and documented." *See Exhibit 7, Ranzie deposition testimony* P. 28, lines 12-14. The next step, however, became to create the staged crime scene. *Id.* Ranzie's testimony clearly proves that BBPD had probable cause to arrest Dippolito before the staged crime scene making BBPD's actions in staging and filming the fake crime scene beyond egregious police misconduct. The entire tape should have been thrown out as a result.

On the morning of August 5, 2009, the staged crime scene was put into place. This was the first time that a member of the BBPD first spoke with Mike Dippolito regarding this alleged serious murder for hire plot his wife was believed to be planning. *See Exhibit 6, Moreno deposition transcript* P. 62, lines 7-10. The fact that BBPD waited until the morning of the staged crime scene to discuss with Mike Dippolito the murder for hire plot combined with no surveillance of Dippolito being installed, and no security provided for Mike Dippolito underscores the blurred tunnel vision BBPD had throughout the entire investigation. Had BBPD earnestly believed Mr. Dippolito was in danger of being murdered, one of the first things it should have done was contact him, or at the very least, provide Mike Dippolito with security to ensure his safety. Instead, BBPD did nothing until the COPS film crew arrived at Mike Dippolito's front door and captured Moreno relaying to Mr. Dippolito the alleged murder for hire plot. *See Exhibit 6, Moreno deposition transcript* P. 63, lines 12-14. In addition to the COPS film crew, BBPD had its own employees filming the events of August 5. *See Exhibit 6, Moreno deposition transcript* P. 63, lines 24-25; P. 64, lines 102. This truly was a Hollywood production! Ranzie remembered Stephanie Slater and Sergeant Anthony filming the staged crime scene. *See Exhibit 7, Ranzie deposition transcript* P. 35, lines 1-3. When Dippolito

arrived at the staged crime scene, the carnival of an investigation was in full swing with police cars blocking streets, yellow caution tape around her house and officers in every direction.

BBPD Department Rules and Regulations, Rule 4 states that “No member shall disclose active criminal investigative information, criminal intelligence information or information concerning ongoing police operations to any person outside of the agency not authorized to receive such information.”

Despite the admonitions of Rule 4, Slater, Anthony, and the COPS film crew were present at the staged crime scene and capturing every minute. At any given time, there were at least three people filming the police operations. Within minutes of Dippolito being told about her husband’s alleged death, Slater had already posted the footage of the fake crime scene on YouTube, along with videos of her meetings with Shihadeh and Jean. Posting of these videos was in direct violation of Rule 4 because the investigation was ongoing and Dippolito had not been arrested. Before Dippolito was arrested or formally charged, the world had made up their minds about her thanks to the reprehensible and egregious misconduct of BBPD in posting the video to YouTube. The video went viral in the United States within seven minutes and international within four minutes.

Following the staged crime scene, Ms. Dippolito was taken to BBPD under the guise of discussing potential suspects in her husband’s murder. While Ranzie’s initial intent was to get a confession from Ms. Dippolito, the allure and desire for fame of BBPD’s other employees controlled the investigation, not policy.

**This thing got spun up so fast. She was in the room for maybe like 15, 20 minutes and all of a sudden they’re walking Woody [Widy] Jean in the room to do an ID. It’s like what the hell. I mean, I call it what it is , it was stupid...in real life would I bring the guy that just murdered your husband into the room and stand him next to you? Really, would I do that? No.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 104, lines 14-21.*

**I’m not - - that should have never happened.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 105, line 15-16.*

BBPD’s actions were fueled by the portrayal and fame it would receive from being featured on Cops for the Dippolito investigation. The main players like Moreno, Sheridan and Slater wanted and needed the fame. Everyone wanted to be the hero of the story and catch the “bad guy.” This preoccupation with COPS led to countless examples of egregious

misconduct and violation of policy. Ranzie was the only one who would have stuck to the rules and actually knew how to handle an informant. However, because of this Sheridan chose to place Moreno as lead detective on the case. Moreno as a young detective was hungry for the attention and fame and would easily break the rules to look good.

**Back at the station that was people wanting to be I'm the best cop in the world, I solved this crime and I'm the guy.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 106, lines 1-3.*

BBPD was so hell bent on creating good television and preoccupied with its own image that Sheridan and others questioning Dippolito did not bother to issue Miranda Rights until almost an hour in to the interrogation. This is not only a blatant violation of BBPD policy, but an outright and intentional violation of Dippolito's due process rights.

**Q. So you would also agree with me Sergeant Sheridan should have immediately issued Miranda Rights to Dippolito once she got into the police station and he started questioning her?**

**A. Once he did, yes.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 107, lines 1-5.*

**But when he walked in and started narrowly hitting her with questions as a suspect, yeah, he was – now she would have easily said I wasn't free to go, you know, I felt that I was in custody.**

*Id* at lines 13-16.

Sheridan questioned Dippolito for 40 minutes without issuing her Miranda rights. *See Declaration of Dippolito.*

#### **Moments During the Investigation When the Case Should have been Aborted**

Throughout the investigation phase of this case, there were several items that should have raised a red flag in the minds of BBPD investigating officers. These red flags alone and collectively were sufficient to require BBPD abort its investigation. They are:

- Shihadeh repeatedly said he did not want to participate in the investigation;
- Shihadeh was not monitored or supervised during the meeting with Dippolito in Chili's;
- Shihadeh, according to BBPD did not have an audible listening device at the meeting at Chili's due to equipment malfunction;

- Shihadeh says he was wired at Chili's which would signify BBPD intentionally destroyed evidence because it showed Dippolito backing out and Shihadeh threatening her;
- Over 500 phone calls took place between Shihadeh and Dippolito between August 1-5 2009 which were not supervised or recorded
- Shihadeh disclosed his identity as an informant to several people.

#### **4. EGREGIOUS MISCONDUCT FOLLOWING THE INVESTIGATION**

##### **a. Posting of Videos on YouTube**

A BBPD Directive on the Release of Information to the Media, specifically prohibits the release of "Any facts that might hinder the investigation of a crime or incident or jeopardize the rights of a person under arrest." *Exhibit 14, Index Code 2422*, Effective 28 March 2000.

Here, BBPD posted footage of the fake crime scene within minutes of telling Dippolito that her husband had been killed. This footage and others showing the meeting between Dippolito and Shihadeh and Dippolito and Jean were all on YouTube before and during Dippolito's trial.

**Q. Are you aware of whether Ms. Slater posted anything on Youtube within five or ten minutes of the staged crime scene being done?**

**A. Yes. I found out later.**

**Q. What did she post?**

**A. That Youtube video I believe the one with me talking to Dalia at the scene of the crime.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 112, line 25; P. 113, lines 1-6.*

Shockingly, Slater posted critical footage of an ongoing investigation before the suspect has even been arrested. This egregious misconduct clearly was done in violation of Dippolito's due process rights. Slater's posting of the videos to Youtube was in direct violation of the BBPD Directive on Release of Information to the Media. She was prohibited from disseminating any facts that could hinder an investigation. Without doubt, Slater disseminated the YouTube videos during a "pending investigation."

**Q. Would you agree with me that the videotape of the staged crime scene during the pending investigation may hinder the rights of the suspect?**

**A. Yes.**

**Q. So your conclusion would be Stephanie Slater should have never released that on Youtube?**

**A. That's correct.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 116, lines 10-16.*

BBPD was setting the stage for the upcoming feature on COPS and destroying the reputation of a woman that was not even in custody and casting her in the light of a criminal. Ranzie had a huge problem with this.

**Q. You have a problem with that, don't you?**

**A. Yes.**

**Q. What is your problem with doing that?**

**A. It's an ongoing investigation. None of that information should have been put out to the media at that point in time. That was for our investigative purposes only.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 113, lines 11-20.*

The ramifications of posting these videos by BBPD are quite clear.

**Q. Why don't you want to release a video of a staged crime scene during a pending investigation?**

**A. Well, like I said for a lot of reasons, but you're tainting the investigation now for everyone and their mother to read and see.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 114, lines 8-12.*

Following the airing of COPS, and while Dippolito's appeal was pending, former Chief Immler had Slater and Ranzie host a podcast to discuss the Dippolito investigation. In the podcast Slater boasts that the videos went viral within minutes of being posted and were international sensations. This continued dissemination of investigative material and the posting of the video footage greatly jeopardized Dippolito's constitutional due process rights and her ability to receive a fair trial.

#### **b. BBPD Fraudulently Obtains Dippolito's Signature on a Waiver for COPS**

The egregious misconduct of BBPD officers did not end with the posting of the videos to YouTube, Sheridan fraudulently obtained Dippolito's signature on a waiver for COPS to be able to air all the footage they had of her. *See Exhibit 11, Sheridan trial transcript P. 2504, lines 22-25; P. 2505, lines 1-7.*

**Q. Okay. You basically give her a, you basically give her a waiver, but never tell her that it has anything to do with COPS, is that correct?**

**A. That's Correct.**

**Q. And you are making her think that it's police procedure, is that right?**

**A. Yes.**

**Q. And essentially you're lying to her, aren't you?**

**A. Yes.**

*See Exhibit 11, Sheridan trial transcript P. 2504, lines 22-25; P. 2505, lines 1-7.*

The same sergeant who admits to falsifying a police report now admits to lying to Dippolito while she is in custody to quench his selfish thirst for fame. In addition to lying to Dippolito to get her signature on the waiver, Sheridan lied on his police report by stating that This was a blatant lie he asked Dippolito if she would mind being on COPS. *See Exhibit 11, Sheridan trial transcript P. 2508, lines 18-25; See Exhibit 3, Sheridan deposition transcript P. 31, lines 17-25.* An official Internal Affairs complaint was levied against Sheridan for untruthfulness in the Dippolito investigation. *See Exhibit 6, Moreno deposition transcript P. 6, lines 18-20.*

Katz was the direct supervisor of the Internal Affairs Unit in 2009. *See Exhibit 15, Katz deposition transcript P. 10, lines 4-8.* He supervised the Internal Affairs investigation into Sheridan's lying and falsification of records during the Dippolito investigation. *Id* at lines 9-13. Katz found Sheridan's act of falsifying a police report a serious allegation. *See Exhibit 15, Katz deposition transcript P. 13, lines 7-9.* As the current police chief, he also found that a sergeant lying to a suspect, like Sheridan did to Dippolito, was a serious allegation that would give rise to some serious concerns. *See Exhibit 15, Katz deposition transcript P. 14, lines 4-12.*

### **c. Former State Attorney Pens Book**

Former State Attorney Parker was the prosecutor assigned to Dippolito's criminal trial. Soon after the completion of the trial, but while Dippolito's appeal was pending, Parker published a book, "Poison Candy: The Murderous Madam: Inside Dali Dippolito's Plot to Kill." She characterized Dippolito as venomous. This is further evidence of egregious misconduct that violate Dippolito's constitutional rights.

### **Moments During the Post-Investigation Phase When the Case Should have been Aborted**

Throughout the post-investigation phase of this case, there were several items that should have raised a red flag in the minds of BBPD investigating officers. These red flags alone and collectively were sufficient to require BBPD abort its investigation. They are:

- Slater posts videos from the investigation on YouTube;
- Sheridan fraudulently obtained Dippolito's signature on a waiver for COPS;
- Sheridan lied in his written report and said eh had asked Dippolito if she wouldn't mind being on COPS.

### **5. Former BBPD Police Chief Immler v. Current BBPD Police Chief Katz**

The Dippolito investigation was conducted by BBPD while Chief Immler was at the department's helm. He had no involvement in any part of the investigation other than being aware that COPS was filming it. There was a policy of anarchy under his watch that led to complete chaos and led to situations like Dippolito's. By contrast, Chief Katz not only knows the rules, but follows them. His knowledge of the BBPD directives in place in 2009 has led him to be critical of Immler and the conduct of BBPD during the Dippolito investigation. Below is a side-by-side comparison of Immler's ratification of violations to BBPD directives and Katz's critique from recent deposition testimony.

### **Immler and Katz's Differing Knowledge on BBPD Directives**

In June 22, 2009, BBPD issued Directive on Informants, Index Code 1622. *See Exhibit 2, Immler deposition transcript*, P. 16, lines 9-10. Prior to that there was a Directive on Informants, Index Code 1622 issued on July 23, 2007. *See Exhibit 10*. When asked whether the 2009 directive replaced or simply modified parts of the 2007 directive, Immler did not know. *See Exhibit 2, Immler deposition transcript* P. 16, lines 7-10. Immler admitted he did not write the directives. *See Exhibit 2, Immler deposition transcript* P. 9, lines 4-8. The Chief of Police did not know whether a new policy replaced or modified a previous one. That is egregious misconduct. If the chief was not aware of the consequence of the new directive taking effect, it naturally follows members of BBPD road patrol, detectives, sergeants, etc., also had no idea which policy to follow, whether both needed to follow and which superseded the other when there was a conflict. This is further confirmed by the fact that BBPD provided no training on new directives or guidance to ensure the directive was understood. *See Exhibit 1, Ranzie deposition transcript; See Exhibit 2, Immler deposition transcript* P. 8, lines 16-25; P. 10, lines 23-25. In contrast to Immler, Katz did know the directives in 2009. From August 2005 until July of 2013, Katz was a lieutenant and the professional standards commander responsible for supervising the accreditation manager that developed directives. *See Exhibit 15, Katz deposition transcript* P. 6, lines 24-25; P. 7, lines 1-4. *See Exhibit 2, Immler deposition transcript* P. 10, lines 12-22.

### **Recording Interviews with Informants**

In July 2009, when Shihadeh walked into BBPD, members of the department conducted a three-hour interview with Shihadeh. No one bothered to record this critical interview, nor is there any record of what transpired during those three hours between Shihadeh and BBPD.

Immler did not recall whether he and BBPD directives required that interviews with informants be interviewed. *See Exhibit 2, Immler deposition transcript* P. 12, line 25 & P. 13, lines 1-3. It is odd that the former chief of police cannot recall the policy on this, particularly when the department had such a huge case dealing with an informant. Katz, on the other hand, stressed the importance of supervising and maintaining control over an informant. *See Exhibit 15, Katz deposition transcript* P. 16, lines 6-10. Part of maintaining control over an informant and supervising him is knowing what he alleged in an initial interview.

### **Recording Phone Calls Between an Informant and Suspect**

From August 1-5, 2009 Shihadeh initiated over 20 phone calls to Dippolito. These calls were not recorded, there was no member of BBPD present monitoring the call, and there is no record of what was said during these calls.

Immler could not recall at his deposition whether it was BBPD's policy to audio record discussions between an informant and suspect. *See Exhibit 2, Immler deposition transcript* p. 26, lines 3-9. When asked whether recording conversations between an informant and suspect was important to the integrity of the investigation he states that it depends. *Id* at lines 10-13. As if this was not egregious enough, when asked specifically about recording conversations during the time period of the Dippolito investigation, Immler's opinion is shocking.

**Q. Well, you're the chief of police and in August of 2009 - - so my question is under what circumstances should law enforcement personnel at Boynton Beach PD be audio recording conversations between civilian informants and suspects?**

**A. When they believe it's appropriate.**

**Q. So you leave it fully in the discretion of a police officer?**

**A. Yes.**

*See Exhibit 2, Immler deposition transcript* P. 26, lines 22-25 & p. 27, lines 1-5.

This mentality of Immler's that such critical decisions should be left at the discretion of each individual police officer is nonsensical, against policy and breeds anarchy. Immler is clearly an advocate of not having rules. His choice as chief to leave decisions to individual police officers shows he did not take the directives seriously and members of BBPD knew that. This is why people like Moreno and Sheridan could get away with committing so many policy and due process violations in the course of one investigation. It is clear that in August 2009, police officers at BBPD could do what ever they wanted.

In stark contrast to Immler's opinion is that of Katz who believes that not only should all communication between an informant and a suspect be recorded, but that they must be recorded to preserve the integrity of the investigation. *See Exhibit 15, Katz deposition transcript* P. 21, lines 8-21. Katz's opinions follow BBPD policies.

**Q. ...wouldn't it be proper protocol for your Boynton Beach Police Department detective who is using an undercover informant to make sure to audio record phone calls between the informant and the suspect so that the detective knows what is being discussed between the suspect, for example, to possible avoid any kind of coercion or enticement?**

**A. That would absolutely be appropriate, yes, sir.**

**Q. And the purpose behind that would be to preserve, again, the integrity of the undercover investigation, correct?**

**A. Absolutely.**

*See Exhibit 15, Katz deposition transcript* P. 21, lines 8-21.

#### **When an Informant Expresses He No Longer Wants to Cooperate**

BBPD Directives on Informants, Index Code 1622 from 2007 and 2009 both have sections discussing the deactivation of an informant. Immler had no recollection of either. *See Exhibit 2, Immler deposition transcript* P. 14, lines 2-11 & P. 16, lines 3-10. The 2007 Directive explicitly states that an informant that expresses he no longer wishes to participate in the investigation should be deactivated. *Exhibit 10*. Despite this, Immler said that it was each officer's discretion whether they chose to deactivate the informant. *Exhibit 2, P. 16, lines 20-21*. This is not only egregious misconduct but also a direct violation of policy. Immler allowed officers to do whatever they wanted, regardless of policy.

The 2009 Directive specifically states whenever the informant becomes unreliable, useless, dangerous or otherwise undesirable this needs to be documented and forwarded to a supervisor for deactivation of the informant. *Exhibit 4*. After reviewing the 2009 Directive, Immler disagreed with it and found no problem with continuing to use an informant that had expressed he no longer wanted to cooperate. Immler's view is directly relevant to the Dippolito investigation and exemplifies why those leading the Dippolito investigation disregarded BBPD policy and continued to use Shihadeh as an informant in the case despite him expressing to BBPD on numerous occasions that he did not want to participate. When the chief of police condones violating policy, it is no wonder that others in the department would follow his lead. When Immler was asked whether he agreed that an

informant should be deactivated once he tells BBPD that no longer wants to be a part of an investigation he answered:

**Well, I mean, I don't know that that's the case because if the – it says that the informant becomes unreliable, useless, dangerous or otherwise undesirable. So not wanting to participate in one investigation doesn't necessarily make the informant unreliable, useless, dangerous or otherwise undesirable.**

*See Exhibit 2, Immler deposition transcript P. 15, lines 17-23.*

Katz is at the opposite spectrum as Immler on the question of when an informant needs to be deactivated. Unlike Immler, Katz believes deactivation of an informant is required once the informant states he longer wants to participate in the investigation. Not doing so could lead to coercion on the part of BBPD.

**Q. Currently, if an informant is being used by the Boynton Beach PD on an undercover operation and that informant tells your Boynton Beach PD detective that he does not want to be involved at all in the undercover operation, under your current directive wouldn't that require the police department to deactivate the informant?**

**A. Yes, sir. We would not coerce someone into serving as a confidential informant.**

*See Exhibit 15, Katz deposition transcript P. 17, lines 17-25.*

Not coercing an informant is the one thing that Immler and Katz did agree on. Both men agreed that it was unacceptable to coerce an informant after the informant has said he no longer wants to participate in the investigation.

**Q. Would you agree with me that your current directive on informants at Boynton Beach PD would preclude a detective at the Boynton Beach Police Department from coercing or threatening an informant to continue on the investigation.**

**A. Yes.**

*See Exhibit 15, Katz deposition transcript P. 18, lines 3-8.*

In the Dippolito investigation, once Shihadeh expressed his unwillingness to participate in the investigation, he was coerced and threatened by BBPD with prosecution. He should have been immediately deactivated. It was only under this threat of criminal charges that BBPD forced Shihadeh to continue participating in the Dippolito investigation against his wishes. Katz not only found this to be against policy, but also compromising to the integrity of the investigation.

**Q. Would you agree with me that a coercive type of relationship between the detective and the informant might lead to a compromising the integrity of the investigation?**

**A. Without question.**

*See Exhibit 15, Katz deposition transcript P. 18, lines 22-25 & P. 19, line 1.*

It is this coercive relationship that led Shihadeh to threaten Dippolito in Chili's to ensure her continued participation in the plan. The coercive relationship did in fact compromise the integrity of the investigation.

**Wiring an Informant During Meeting with Suspect**

BBPD sent Shihadeh into a meeting with Dippolito allegedly without a wire. While it is still under question whether Shihadeh was in fact wired or not, we will assume for purposes of this section that he was not. Immler was not at all critical of the fact that Shihadeh, an informant, was sent into a meeting with Dippolito without any wiring device. *See Exhibit 2, Immler deposition transcript p. 25, lines 3-7.* It is egregious for the chief to condone such behavior and shows the incompetence with which BBPD was being controlled at the time of the Dippolito investigation. Although Immler condoned Shihadeh not being wired at his meeting with Dippolito, he gave his opinion without even being able to recall the policy in place in 2009 regarding wiring of informants, showing how incompetent the BBPD leadership was in 2009. *See Exhibit 2, Immler deposition transcript P. 26, lines 3-9.*

Again, Katz was an advocate of adhering to the rules and was critical of Shihadeh being sent in to the meeting at Chili's without a wire. *See Exhibit 15, Katz deposition transcript P. 33, line 4.* Katz was told of Ranzie approaching Sheridan and trying to convince him of trying to get a wiring device from another nearby agency. *See Exhibit 15, Katz deposition transcript P. 32, lines 19-25 & P. 33, lines 1-4.* Katz was critical of Sheridan not delaying the meeting and trying to acquire another wire when he learned that BBPD's wire was malfunctioning. *Id.* Katz's opinion exemplifies that of a competent leader, in stark contrast to Immler.

Although Immler and Katz disagreed about whether Shihadeh was required to be wired during his meeting with Dippolito, the two agreed that it would be important for BBPD to know if Shihadeh threatened Dippolito during the meeting. Immler found the information of a threat to be pertinent due to its potential evidentiary value. *See Exhibit 2, Immler deposition transcript P. 29, lines 5-6.* Katz agreed with Immler's reference to the potential evidentiary value and took his opinion a step further by describing the potential evidentiary value.

**Well, because, I mean, then you're in a position where you potentially have an informant who is coercing someone who might otherwise not engage in criminal behavior to engage in criminal behavior...**

*See Exhibit 15, Katz deposition transcript P. 25, lines 17-20.*

Katz's described the exact situation that took place in the Dippolito investigation. Shihadeh threatened Dippolito after she shared with him her unwillingness to move forward with the plan. Due to Shihadeh's threats, Dippolito was forced to continue with the murder for hire plot that led to her being criminally charged for criminal behavior she would have not otherwise engaged in.

### **Preservation of Audio Recorded in Chili's**

As mentioned earlier, there is a discrepancy as to whether Shihadeh was wired when he met Dippolito at Chili's. If he was wired, as Shihadeh alleges, BBPD intentionally and knowingly destroyed the audio from that day. Both Immler and Katz that if the meeting was recorded, the audio should have been maintained by the department. *See Exhibit 2, Immler deposition transcript P. 29, lines 15-17; See Exhibit 15, Katz deposition transcript P. 27, lines 12-17.* Based on the testimony of both Immler and Katz, the destruction of said audio was egregious conduct that violated policy.

The many discrepancies in the opinions given by Immler and Katz highlight the incompetent and inefficient leadership that existed at BBPD during the 2009 Dippolito investigation. First, Immler was unaware of what policies were in place in 2009. Then, Immler condoned and ratified the actions of BBPD that were in direct violation of the department's policies. On the other hand, Katz, who knew the applicable policies, advocated adhering to BBPD policies and was critical of everything Immler condoned. Immler created a department run by anarchy that harbored and condoned members acting as they wished, rather than following policy. This led to several policy violations taking place in the Dippolito investigation that resulted in Dippolito having her due process rights violated.

## **II. DEFENDANT WILL NEVER RECEIVE A FAIR TRIAL**

The "incriminating evidence" BBPD claimed to have obtained during the course of their investigation was all fruit of the poisonous tree that was tainted by the department's reprehensible and egregious misconduct.

The key pieces of evidence used by the prosecution at Dippolito's trial were obtained as a result of the BBPD's egregious misconduct and the violations of Dippolito's substantive due process rights. As such, the three videos that were the State's key evidence in convicting Dippolito should never have been viewed by the public or entered into evidence. The violations of Dippolito's substantive due process rights parallel a Brady violation. BBPD intentionally destroyed all audio evidence that was recorded prior to the three videos discussed below being made. Between August 1<sup>st</sup> and 5<sup>th</sup> Shihadeh called Dippolito over twenty times. Shihadeh stated in his deposition that his phone was tapped and all phone calls were being recorded. All audio recording from Shihadeh's phone were intentionally destroyed by BBPD because they were proof that Dippolito was not planning a murder for hire, but that instead BBPD was guilty of entrapment.

The extent to which the above-referenced three videos were viewed by the public before, during and after Dippolito's has effectively and permanently tainted the jury pool. It would be extremely difficult to find an individual who has not seen a single one of the videos. Before Dippolito was arrested or formally charged, the world had made up their minds about her thanks to the reprehensible and egregious misconduct of BBPD in posting the videos to YouTube. *See Declaration of Williams*. Overcoming the taint of this disclosure by BBPD is near impossible, as Ranzie points out himself.

**Q. Why don't you want to release a video of a staged crime scene during a pending investigation?**

**A. Well, like I said for a lot of reasons, but you're tainting the investigation now for everyone and their mother to read and see.**

**Q. How so?**

**A. How are you going to get a jury that didn't see it?**

**Q. Right, it's hard to get a fair trial isn't it?**

**A. I would agree with that...I mean hell, I had people in New York tell me you're famous...Then Nancy Grace blew it up. It just got legs and it ran away. Now it was everywhere, you couldn't get away from it.**

*See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 114, lines 8-22.*

As Ranzie himself expressed, the videos were everywhere, "you couldn't get away from it." *See Exhibit 1, Deposition Transcript of Ranzie (Oct. 19, 2015) P. 114, line 22.* This was the jury pool Dippolito dealt with and this will be the jury pool she would be required to face in her upcoming trial. It is difficult to find someone in the country that has not heard something about the case, seen the videos and made up their minds about the "poison candy" and Prosecutor called Dippolito in her

book. To find an untainted jury pool within Florida is near impossible, if not impossible due to all the media frenzy BBPD created.

### **III. CONCLUSION**

BBPD manufactured a crime where non existed in order to secure its place on COPS TV show. This investigation was not about catching a criminal, but about scripting a great episode that would bring the department publicity and glory. From the moment Shihadeh reported what he knew to BBPD, the department saw this as their ticket to a ratings bonanza on COPS. This led BBPD to set up various meetings between Dippolito and others to entice and encourage her into committing the crime of solicitation. Florida case law is replete with cases showing that when taken together, the totality of law enforcement's conduct constitutes a violation of defendant's due process rights, a motion to dismiss is warranted and should be granted. For six years BBPD avoided scrutiny. Now, we know why. The case law is unavoidable. The facts are unavoidable. Examination of all the due process violations perpetrated by the BBPD will establish that the preponderance of the evidence rests on the defense's side. The final and fair result is to dismiss these charges in order to hold BBPD accountable for its conduct in committing flagrant constitutional violations and to restore Dippolito's life to her. She will never get a fair trial due to BBPD's nefarious conduct. Dippolito requests that the instant court grant the Motion to Dismiss.

**I HEREBY CERTIFY** that a true copy of the foregoing was electronically filed this 17th day of November, 2015.

Respectfully Submitted,

**LAW OFFICES OF BRIAN E. CLAYPOOL**  
**1055 E. Colorado Boulevard, 5<sup>th</sup> Floor**  
**Pasadena, California 91106**  
**Telephone: (626) 240-4616**  
**Brian@Claypoollawfirm.com**

BY: /s/ *Brian E. Claypool*  
BRIAN E. CLAYPOOL  
*Attorney Pro Hac Vice for the Defendant*  
California Bar No.: 134674  
PHV No.: 116999

**LAW OFFICES OF MARK EIGLARSH**  
**4770 Biscayne Boulevard**  
**Suite 610**  
**Miami, Florida 33137**  
**Telephone: (305) 674-0003**  
**Facsimile (305) 674-0102**  
Mark@EiglarshLaw.com

BY: /s/ *Mark Eiglarsh*  
MARK EIGLARSH  
Florida Bar No.: 956414