

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,	)	<b>INDICTMENT</b>
	)	
Plaintiff,	)	(18 U.S.C. § 1343)
	)	(18 U.S.C. § 1346)
v.	)	(18 U.S.C. § 641)
	)	(18 U.S.C. § 241)
1. TIMOTHY CONRAD REHAK and	)	
2. MARK PAUL NAYLON,	)	
	)	
Defendants.	)	

THE UNITED STATES GRAND JURY CHARGES THAT:

**INTRODUCTION**

At all relevant times:

1. The St. Paul Police Department is a government agency responsible for enforcing the laws of the State of Minnesota in St. Paul, Minnesota.
2. The Ramsey County Sheriff's Department, including its Special Investigations Unit, is a government agency responsible for enforcing the laws of the State of Minnesota in Ramsey County.
3. Defendant TIMOTHY CONRAD REHAK was an officer of the St. Paul Police Department, assigned to the Special Investigations Unit of the Ramsey County Sheriff's Department. REHAK was a peace officer licensed by the State of Minnesota.
4. Defendant MARK PAUL NAYLON was an employee of the Ramsey County Sheriff's Department with the title of public information officer. Although not a peace officer licensed by the State of Minnesota, in fact, NAYLON engaged in actions and

duties of a peace officer, and specifically those of a deputy assigned to the Special Investigations Unit of the Ramsey County Sheriff's Department.

**COUNTS 1-6**

(Deprivation of Honest Services Fraud)

5. The grand jury hereby incorporates and realleges paragraphs 1 through 4 of this Indictment.
6. As part of their respective employment by government agencies responsible for enforcing the laws of the State of Minnesota in St. Paul, Minnesota, REHAK and NAYLON owed their honest and faithful services to the State of Minnesota and its citizens, who held the intangible right to the defendants' honest services, performed free of deceit, fraud, dishonesty, conflict of interest and self-enrichment.
7. In accordance with Statute 626.8457 of the State of Minnesota, the St. Paul Police Department enacted policies and procedures including Rules of Conduct that prohibit, in relevant part, the following actions:
  - Any conduct or action taken to use the official position for personal gain or influence.
  - Failure to perform a duty imposed by law, Saint Paul City Charter, Civil Services Rules or Department of Police orders.
  - Making a false report, either written or oral.
  - Failure to promptly submit a written report to their immediate supervisor, knowledge that any employee

including one's self is under investigation by another law enforcement agency.

- Failure to inventory and process recovered property in conformance with department orders.

8. In accordance with Statute 626.8457 of the State of Minnesota, the Ramsey County Sheriff's Department enacted policies and procedures for its employees and agents including Rules of Conduct that provide, in relevant part, as follows:

- Deputies shall not knowingly exceed their authority in the enforcement of the law. (Rule 1.1)
- Deputies shall not knowingly disobey the law or rules of criminal procedure in such areas as interrogation, arrest, detention, searches, seizures, use of informants and preservation of evidence. (Rule 1.2)
- Deputies shall carry out their duties with integrity, fairness and impartiality. (Rule 2.1)
- Deputies shall truthfully, completely and impartially report, testify and present evidence, including exculpatory evidence, in all matters of an official nature. (Rule 2.3)
- Deputies learning of conduct or observing conduct which is in violation of any law or policy of this department shall take necessary action and report the incident to the officers' immediate supervisor, who shall forward the information to the Sheriff. (Rule 2.6)
- Deputies shall not conduct themselves in a manner which adversely affects the morale or efficiency of the department, and any conduct which has a tendency to adversely affect, lower or destroy public respect and confidence in the department or deputy. (Rule 4.10)
- Deputies shall not use the authority of their position as peace officers, or information available to them due to their status as peace officers, for any purpose of personal gain. (Rule 7.3)

8. Pursuant to Statute 626.863 of the State of Minnesota, a person who is not a licensed peace officer shall not perform or attempt to perform an act, duty, or responsibility reserved by law for licensed peace officers.
9. Pursuant to Statute 609.52, Subd. 2 (1) & (5) of the State of Minnesota, a person is prohibited from intentionally and without claim of right taking, concealing or retaining possession of moveable property of another, with the intent to exercise temporary control where the exercise of control manifests indifference to the rights of the owner, without the owner's consent.
10. Pursuant to Statute 626.16 of the State of Minnesota, peace officers conducting a search pursuant to a warrant must give a copy of the warrant and, when property or things are taken, a receipt therefor (specifying it in detail) to the person in whose possession the premises or the property or things taken were found; or, in the absence of any person, the officer must leave such copy of the warrant and receipt in the place where the property or things were found.
11. From in or about 2004, and continuing through in or about 2005, in the State and District of Minnesota, the defendants,

**TIMOTHY CONRAD REHAK**  
and  
**MARK PAUL NAYLON,**

aiding and abetting one another, devised and intended to devise a scheme to defraud by means of depriving the State of Minnesota and its citizens of the intangible right to the defendants' honest services, performed free of deceit, fraud, dishonesty, conflict of interest and self-enrichment.

**PURPOSE OF THE SCHEME**

12. The purpose of the scheme and artifice was to unlawfully seize property and to conceal their unlawful actions.

**THE SCHEME**

Integrity Test # 1- November 3, 2004

13. On or about November 3, 2004, a cooperating individual working with the Federal Bureau of Investigation (the "FBI") contacted REHAK and advised him that a drug trafficker, who had rented a hotel room in St. Paul, had been arrested and was trying to recover drugs and currency left by him in the hotel room. In fact, there was no such drug trafficker, which was a fiction created by the FBI as part of an "integrity test" of law enforcement. The cooperating individual provided REHAK with the name of the purported drug trafficker and the name of the hotel where the drugs and currency were purportedly located.
14. At the time REHAK was working with NAYLON. REHAK and NAYLON went to the hotel where they identified the room rented (by the FBI) in the name of the drug trafficker. The defendants

attempted to gain unlawful entry into the room without a search warrant. After the hotel clerk refused, the defendants contacted an authorized Ramsey County Deputy (hereafter Deputy #1) to apply for a search warrant. Based on the information provided by the defendants, Deputy #1 applied to a Minnesota state court judge who issued a search warrant for the hotel room.

15. At approximately 3:30 p.m., the defendants and Deputy #1 entered the hotel room rented by the FBI. Deputy #1 began searching the bathroom while the defendants searched the main room. Defendant REHAK located a bag inside the dresser, which had been left by the FBI with \$13,500 in currency inside. While Deputy #1 was inside the bathroom out of sight, defendant NAYLON motioned for defendant REHAK to give him some of the currency. REHAK gave NAYLON \$6,000 in currency, which NAYLON concealed by placing the currency in his jacket pocket.
16. Immediately thereafter, the defendants alerted Deputy #1 they had discovered a bag and brought him into the main room. Once Deputy #1 returned to the main room, defendant REHAK purported to begin searching the bag and pulled the remaining currency, \$7,500, out from the bag.
17. Deputy #1, in accordance with the procedures of the Ramsey County Sheriff's Department and Minnesota state law, acted as

the inventory officer. In order to properly secure and inventory the seized currency, and in accordance with official procedures, Deputy #1 and REHAK performed separate, duplicate counts of the funds that were remaining in the bag, \$7,500. Deputy #1 and REHAK did not count the \$6,000 that REHAK and NAYLON had removed from the bag and concealed from the deputy. During the course of the search, NAYLON left the hotel, went to the trunk of his official vehicle and then returned to the room.

18. During the execution of the search warrant, Deputy #1 called for a trained canine. When another deputy (hereafter Deputy #2) arrived with the canine, the canine was instructed to sniff the \$7,500 in currency for the odor of narcotics, which was relevant evidence for potential forfeiture proceedings. Deputy #2 was advised that only \$7,500 was seized, which he then reported in his official record of the incident. At no time on November 3, 2004 or thereafter was the canine allowed to sniff the remaining \$6,000 taken by REHAK and NAYLON for the odor of narcotics. At no time on November 3, 2004 or thereafter did the defendants advise Deputy #2 that \$13,500 was actually seized in the room.
19. At the completion of the search and while present in the hotel room, in accordance with the official procedures of the Ramsey

County Sheriff's Department and the laws of Minnesota, Deputy #1 completed an official receipt of the property seized pursuant to the search warrant that indicated that only \$7,500 was seized, because Deputy #1 was unaware of the \$6,000 in currency REHAK had handed to NAYLON to pocket. The defendants' concealment of the additional \$6,000 seized by them was material. In violation of their duties, the defendants caused the official search warrant receipt to be false. In accordance with the official procedures of the Ramsey County Sheriff's Department and the laws of Minnesota, Deputy #1 left a copy of the official receipt in the hotel room advising the occupant of what law enforcement had purportedly seized. As the inventory officer, Deputy #1 took control of the property lawfully seized during the execution of the search warrant, including the \$7,500.

20. After the defendants and the Ramsey County deputies had completed the search and left the room, FBI agents entered the room and confirmed that the full \$13,500 had actually been seized and removed from the hotel room, and not just the \$7,500 indicated on the official receipt.

21. Although the cooperating individual had told defendant REHAK that both currency and narcotics had been left in the hotel room by the fictitious drug trafficker, in fact, the FBI had

left only drug packaging without any quantity of narcotics along with \$13,500 in currency. Following the search warrant, the defendants became suspicious, believing it unlikely that a drug trafficker would leave a large amount of currency in an unattended hotel room.

22. After the search warrant had been completed, at approximately 5:30 p.m., and again at approximately 9:45 p.m., the defendants caused numerous official law enforcement data bases to be searched for the name of the fictitious drug trafficker. These data bases indicated that there was no such person, thereby alerting the defendants that the hotel room had likely been a law enforcement integrity test.
23. Thereafter, later that night, at approximately midnight, each of the defendants called Deputy #1 at his residence. The defendants advised Deputy #1 that an additional \$6,000 had been seized in the search warrant. The defendants falsely claimed that the additional funds had been recovered in the box spring or mattress in the hotel room, when in fact the defendants had taken the \$6,000 from the bag with the other funds.
24. The following day, the defendants provided Deputy #1 with the remaining \$6,000 so that he could take custody of the property. Deputy #1 thereafter changed the department copy of

the inventory to reflect the full \$13,500 that had been seized from the hotel room.

25. In the days that followed, Deputy #1 began the procedures for forfeiture of the currency. To do so, Deputy #1 caused official law enforcement data bases to be checked so as to notify the owner of the money regarding the forfeiture proceeding. At no time did the defendants advise Deputy #1 they had also checked official law enforcement data bases or the results of those checks.
26. On or about November 3, 2004, the defendants believed that the search of the hotel room had been subject of an integrity test, but made no mention of the integrity test to Deputy #1 or Deputy #2, or to the defendants' respective supervisors at the Ramsey County Sheriff's Department or the St. Paul Police Department.

Integrity Test # 2 - July 12-14, 2005

27. On July 12, 2005, the FBI again used the cooperating individual to contact REHAK to initiate another integrity test. Again, in a telephone call at approximately 1:00 p.m., the cooperating individual reported to REHAK that a drug trafficker had left drugs and currency stashed in a vehicle. The cooperating individual provided REHAK with a description of the vehicle and a general location. Again, the information

was a fiction created by the FBI as part of an integrity test of law enforcement, namely, defendants REHAK and NAYLON.

28. Later that day, at approximately 11:00 p.m., after additional calls between the cooperating individual and REHAK, REHAK and NAYLON were spotted near the target vehicle that had been described by the cooperating individual and left by the FBI. At approximately 11:24 p.m., the St. Paul Police Department Dispatch queried the license plate of the target vehicle through an official law enforcement data base and determined that the target vehicle was registered to a company, rather than an individual. REHAK and NAYLON were observed in surveillance in the area, but the defendants left the area in the early morning hours of July 13 without entering the target vehicle.
29. The following day, on July 14, 2005 at approximately 2:30 p.m., the cooperating individual again contacted REHAK to advise him the target vehicle had been moved and again advised him that it contained narcotics and currency.
30. Thereafter, at approximately 3:00 p.m., NAYLON was observed conducting surveillance on the vehicle. At approximately 4:30 p.m., NAYLON approached the target vehicle and wrote down the VIN number.
31. At approximately 5:16 p.m., the Ramsey County Sheriff's

Department queried official data bases regarding the target vehicle. The query indicated that the car had been reported stolen.

32. At approximately 5:30 p.m., the defendants called in a canine unit to the scene to sniff the vehicle left by the FBI. The canine did not alert, however, for the presence of narcotics in the vehicle, indicating that narcotics were not present inside the vehicle, contradicting the information provided by the cooperating individual. In fact, the FBI had left currency, but no quantity of narcotics inside the vehicle.
33. At approximately 5:40 p.m., 6:00 p.m. and 6:12 p.m., NAYLON called REHAK.
34. At approximately 8:30 p.m., REHAK arrived in the parking lot where the vehicle was located. At approximately 8:40 p.m., REHAK contacted the cooperating individual and questioned "Why would anybody store a substantial amount of dope in a stolen car parked at a hotel?" The cooperating individual assured REHAK that narcotics and currency were located in the target vehicle.
35. At approximately 10:00 p.m., when no other law enforcement officers were on scene, REHAK and NAYLON entered the vehicle. Once inside, the defendants found a bag in the trunk with currency but no narcotics.

36. At that moment, the defendants disbelieved that a drug trafficker would stash a large amount of currency inside a vehicle; the defendants both knew that they were the subject of a second integrity test, and the defendants both knew that they were under surveillance.
37. Both defendants were then observed walking a short distance away from the car where they conversed briefly.
38. When they returned to the car, the two defendants agreed to treat the incident as having found a stolen vehicle. The defendants called another deputy to arrange a tow of the vehicle. All of the property, including the currency left in the bag by the FBI, was inventoried by that deputy. Neither of the defendants wrote a report regarding the incident.
39. Although both defendants knew that they had been the subject of two separate integrity tests by law enforcement, they did not report the events or the investigation to their supervisors of the Ramsey County Sheriff's Department or the St. Paul Police Department.

**THE WIRES**

40. On or about the dates set forth below, in furtherance of the scheme described above, and for the purpose of executing the scheme to defraud by means of depriving the State of Minnesota and its citizens of their right to their honest services, the

defendants, for the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud, on or about the dates set forth below, did knowingly cause to be transmitted in interstate commerce certain signs and signals by wire, that is computer queries via internet connection by the Ramsey County Sheriff's Department of official law enforcement data bases located outside the State of Minnesota:

Count	Date/Time	Database	Query Result
1	11/3/2004 5:36 p.m.	National Crime Information Center	No NCIC Want
2	11/3/2004 5:38 p.m.	Illinois Secretary of State via National Law Enforcement Telecommunication System	No Record on File
3	11/3/2004 5:38 p.m.	Indiana Bureau of Motor Vehicles via National Law Enforcement Telecommunication System	Not on File
4	11/3/2004 9:42 p.m.	Illinois Secretary of State via National Law Enforcement Telecommunication System	User does not respond to Msg Type - NLETS will not forward to IL

5	7/12/2005 11:24 p.m.	Illinois Secretary of State via National Law Enforcement Telecommunication System	Registered owner information
6	7/14/2005 5:16 p.m.	National Crime Information Center	Stolen Vehicle

41. All in violation of Title 18, United States Code, Sections 1343 and 1346.

**COUNT 7**  
**(Theft of Government Funds)**

42. The grand jury hereby incorporates and realleges paragraphs 1 through 40 of this Indictment.

43. On November 3, 2004, in the State and District of Minnesota, the defendants,

**TIMOTHY CONRAD REHAK**  
**and**  
**MARK PAUL NAYLON,**

each aiding and abetting the other, did knowingly steal, purloin and convert, for their own use, and without legal authority, funds of the United States, namely, \$6,000 in U.S. currency left in a hotel room by the Federal Bureau of Investigation; in violation of Title 18, United States Code, Section 641.

**COUNT 8**  
**(Conspiracy to Violate Civil Rights)**

44. The grand jury hereby incorporates and realleges paragraphs 1 through 40 of this Indictment.
45. From at least November 2004 through at least July 2005, in the State and District of Minnesota, the defendants,

**TIMOTHY CONRAD REHAK**  
**and**  
**MARK PAUL NAYLON,**

while acting under color of the laws of the State of Minnesota, did willfully conspire and agree together to injure a person or persons in the State of Minnesota in the free exercise and enjoyment of the rights and privileges secured to such persons by the Constitution and laws of the United States, namely the right not to be deprived of property without due process of law by one acting under color of the law.

**OVERT ACTS**

46. On November 3, 2004, while executing a state search warrant, defendant REHAK found \$13,500 in a hotel room and gave \$6,000 to defendant NAYLON who pocketed the currency.

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47. On November 3, 2004, defendants REHAK and NAYLON reported to two deputies who assisted in the search warrant that only \$7,500 had been seized in the hotel room.

All in violation of Title 18, United States Code, Section 241.

A TRUE BILL

\_\_\_\_\_  
ACTING UNITED STATES ATTORNEY

\_\_\_\_\_  
FOREPERSON