

Informers

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hours joint, a low-level marijuana dealer or a prostitute. Such relations are generally informal and usually benign.

But the contact that is at once the most useful and explosive is formalized contact with a criminal informant — the actual narcotics dealer, loan shark, killer or fence who, for a variety of reasons, provides inside information to authorities. To many police and legal experts, the question is not whether to use them, but how to manage informants so they don't eventually mark the deck in their favor. It's a high-stakes poker game.

"The people who swim in that sea happen to be smelly fish," Minneapolis Police Chief Anthony Bouza said about informants. Added Bouza, an expert and author on police intelligence work, "You have to deal with what you find."

The trip wires are numerous, ranging from the informant who sets up a lucrative criminal sideshow while feeding an investigator secrets about a rival mobster, to the informant who actually controls the agent assigned to manage him.

In one of the FBI's biggest embarrassments, agent Daniel A. Mitrione Jr., an 11-year veteran based in Florida, admitted to accepting \$850,000 bribes from his informant. Mitrione, who pleaded guilty in 1985 to cocaine trafficking, had let his informant deal on his own during a drug-trafficking probe.

And another recent FBI blemish involved former Teamsters union president Jackie Presser, who died last July. Presser was charged in 1986 with helping set up a payroll scam at his Cleveland local in which \$700,000 was funneled to organized-crime figures. The indictment was followed by the disclosure that Presser had served for 10 years as an informant for the FBI and the Internal Revenue Service. An FBI supervisor in Cleveland was then charged with lying to protect Presser after claiming the bureau had authorized the payroll scheme. The FBI fired the supervisor, but a perjury case against him was dropped last spring after the government lost a key court ruling on the evidence.

"Without informants, we're nothing"

Few in law enforcement question the need for snitches. "Without informants, we're nothing," former FBI Director Clarence Kelly once said about the bureau's dependency.

David Westgate, a Drug Enforcement Administration official, called informants "indispensable." Since 1969, he said, the

DEA has managed 60,000 "cooperating individuals" and, at any given time, has about 4,000 informants. Payments run between \$2 million to \$4 million a year, he said in a recent interview.

"In the most important and difficult cases, you desperately need an informant," noted Philip B. Heyman, a Harvard law professor who, as an assistant attorney general in the Carter administration, wrote policy guidelines in 1980 to aid the FBI.

Both the practical and the philosophical explain why law enforcement relies so heavily on criminal insiders. They are considered essential in breaking open conspiracies that do not usually involve complaining witnesses — drug rings, gambling, loan-sharking, prostitution or any one of the many illegal enterprises managed by organized-crime leaders.

In those cases, investigators seeking evidence must covertly penetrate the circle of silence — using electronic surveillance, their own undercover agent or an informant, with the informant often a necessary first step in planting an agent or a bug.

Indeed, the FBI in Boston would never have pulled off the stunning feat of bugging Mafia underboss Gennaro J. Angiulo in 1981 without informants handing over the probable cause needed to win court approval to hide two microphones in Angiulo's North End office. Before that, in the FBI's "Operation Lobster," an informant was used to introduce undercover agents to those running a lucrative truck-hijacking operation in New England in 1977. The probe resulted in 57 convictions, including six Mafia associates and six members of the Winter Hill Gang.

The need for extensive, formalized contact with the crooks is often viewed as the trade-off in a society that, in order to secure strong privacy rights, has imposed tough controls on such intelligence-gathering techniques as warrantless searches and unrestricted police interrogations.

"How are cops going to know what's going on without informants?" asks Gary T. Marx, a sociology professor at the Massachusetts Institute of Technology. Marx, not one to favor relaxation in privacy rights, nevertheless observed that a reliance on informants is "a price of our civil liberties."

"Informants are a solution our society has worked out as a result of the inhibitions our police face with the Bill of Rights," added Marx, who has just published a new book titled, "Undercover: Police Surveillance in America."

Most police agencies have developed guidelines designed to protect against a backfiring informant — having more than one agent, or multiple handlers, for each

informant; regular and rigorous reviews by supervisors; constant monitoring of the accuracy and quality of the inside information, which must always be weighed against any allegations of the informants' own criminal activities. But the policies are far from uniform.

The DEA, for example, often makes its informants testify in court, a practice that can work as a check against inflated or manufactured information. It also means that the DEA has a constant demand for new informants, having used up, or burned, those who have gone to court and appeared publicly.

The FBI, meanwhile, makes no such demands about testifying, due largely to its practice of maintaining informant relationships that are long-term and secret. "We do everything that is legally possible to protect their confidentiality," said FBI deputy assistant director Ken Walton, who oversees the bureau's criminal investigations division. "We feel so strongly about this that in some prosecutable cases we have opted not to prosecute in order to protect the identity of our informant."

Even with the most smartly-worded guidelines, however, the informant system, said Walton, is "very volatile." It's a system that encourages an agent to get close enough to win an informant's trust, but remain shy of that elusive line when the contact gets too close and the agent is compromised.

Overlooking transgressions

Said MIT's Marx, "If you look at the FBI procedures, they look pretty good, but the question that has to be asked is what is the link between the formal procedure and implementation — what actually happens in practice. As a sociologist, I know there is a gap between formal and informal systems."

For example, even though the FBI and other agencies usually instruct their criminal informant not to break the law, "minor kinds of transgressions will be tolerated," said Marx.

Trouble arises when an agent begins feeling responsible for the informant. Gifts may be exchanged and, particularly in the long-term relationships maintained by the FBI, an agent may begin bending the rules in order to protect his informant.

"There is a temptation to let the informant, who is taking great risks for you, get away with something," said Bouza of Minneapolis. "All kinds of bad relationships arise. Sometimes sexual, sometimes symbiotic. People get to like one another." "I worry when I hear things like 'there are good crooks and bad crooks, and so-and-so is really a pretty good guy,'" one FBI supervisor told Marx, echoing the

concern investigators in Boston have expressed about the FBI and Whitey Bulger.

And the secrecy that permits an informant relationship to work also cuts against accountability and sometimes even the discovery of an informant who has corrupted his handler and used his position to knock out his underworld competition. With the widespread use of informants, the informant sometimes has several deals going, creating interaction confusion. Chaos also comes when

one agency's informant is another agency's target.

The authorities, therefore, must constantly monitor the agent and his informant, watching for hints that the informant is actually a double agent, or is using his role to further his own crimes, or has risen in rank to the point where he should be targeted, not carried.

Said MIT's Marx: "There are no easy answers, no quick fixes, but at best a continual struggle to keep everyone honest."



Former Teamsters president Jackie Presser: he served for 10 years as an informant for the FBI and the IRS.

AP photo