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# FBI Law Enforcement

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## **Drug Informants Motives, Methods, and Management**

By

GREGORY D. LEE, M.P.A.

**L**aw enforcement agencies today face the tremendous challenge of combating drugs on the street. To meet this challenge, they must conduct investigations into the activities of organized drug dealers. With few exceptions, these investigations involve the use of confidential informants (CIs).

Agencies continue to use CIs because they help to solve crimes that may remain unsolved without their assistance. Indeed, relationships between drug investigators and their informants frequently determine the success or failure of an agency's drug enforcement program.

The Drug Enforcement Administration (DEA) has learned through experience that managing drug informants is, at best, challenging. But, if left unchecked, the results may be disastrous. CIs can be both the best friends and worst enemies of the investigators who must deal with them on a regular basis.

Informants in drug enforcement are unique among criminal informants, and perhaps, the most difficult to manage. However, investigators who know what motivates individuals to become informants can manage them more effectively. This article explains these motivational factors and outlines the steps law enforcement agencies can take to ensure the successful management of drug informants.

### **MOTIVATIONAL FACTORS**

Like most people, informants need motivation to produce. In fact, the more motivated they are, the more likely they are to apply themselves to the task at hand and remain committed to achieving success. Therefore, by identifying an informant's true motives, an investigator greatly enhances the successful management of an investigation.

Informants commonly voice a specific motive for providing assistance. However, as a case proceeds and a relationship with an investigator develops, other reasons may surface. Some of the more common motivational factors encountered by drug enforcement investigators are fear, revenge, money, repentance, and altruism.

First, the most frequently encountered motivational factor may

be the CI's fear of punishment for criminal acts. Severe criminal penalties tend to increase the number of persons wishing to cooperate with drug enforcement authorities.

Informants may also fear their criminal associates. Individuals wrongly accused by drug dealers of being informants may then become informants for self-preservation, money, or both.

Next, informants frequently cooperate with the Government to seek revenge against their enemies. Jealousy may also prompt these acts of vengeance.

In addition, some individuals provide information or services for money. These money-motivated informants, known as mercenaries, are usually the most willing to follow the directions of their handlers. Mercenaries frequently possess other motives as well.

Furthermore, repentance can be a motivating factor. Informants often claim they cooperate in order to repent for past crimes. However, this is seldom their only motive for cooperating.

Finally, some individuals are motivated by a sense of altruism. People with professional obligations or feelings of responsibility frequently provide information to the police. Examples of altruistic informants include airline ticket agents and private mail service carriers.

#### PROBLEM INFORMANTS

Some informants have personalities that make them difficult, if not impossible, to manage. These individuals may also have questionable motives for offering their serv-

ices to a law enforcement agency. Investigators who misjudge the true motives of informants experience tremendous control problems. This can create safety problems and place department resources and personnel in jeopardy. Therefore, each time informants offer information, investigators should question their motives. Furthermore, investigators should avoid recruiting certain types of individuals, if possible.

#### Egotistical Informants

These commonly encountered informants may not have received positive reinforcement from their parents or schoolmates when growing up. Consequently, they seek positive feedback from their handlers as their primary reward. Investigators who provide this positive reinforcement motivate egotistical informants to continue supplying quality information. Unfortunately, these informants are

often the hardest to handle because their egos prevent them from relinquishing control of the investigation entirely to their handlers.

#### Informants with the James Bond Syndrome

Some persons see their roles as informants as a way to have their lives imitate art. While working as informants, they imagine themselves in a police or spy drama. Sometimes, they even attempt to orchestrate events to parallel a scene from a movie or novel. Frequently hard to handle, these informants often exaggerate their knowledge of criminal activity to enhance the likelihood of their becoming informants.

#### Wannabe Informants

Wannabe informants are people who, for whatever reason, failed to qualify for a law enforcement position and now seek to become

***"Investigators who misjudge the true motives of informants experience tremendous control problems."***



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involved in law enforcement as informants. Because they lack criminal associates, these individuals usually cannot provide specific information about drug dealing. Therefore, they do not make good informants.

### Perversely Motivated Informants

The most dangerous and disruptive informants in drug law enforcement are perversely motivated CIs. They offer their services in order to identify undercover agents, learn the department's methods, targets, and intelligence, or eliminate their own competition in drug sales. Sometimes, criminal organizations instruct these individuals to infiltrate departments and learn whatever they can to assist the traffickers. These individuals may even provide genuine information about specific events as a decoy to divert resources from more significant trafficking activity.

Therefore, investigators must question all walk-in and call-in informants (i.e., individuals who volunteer their services without prompting), because they may be, or have the potential to be, perversely motivated. After completing a thorough background investigation of CIs, investigators must constantly guard against providing more information to informants than the informants furnish in return. Furthermore, investigators should not discuss with informants

specific details about methods and techniques used during drug investigations.

### RESTRICTED-USE INFORMANTS

In addition to problem informants, certain other informants,<sup>1</sup> by virtue of their criminal background or other status, pose special management challenges to both investigators and supervisors. Department managers should carefully scrutinize these individuals prior to using them as CIs. Examples include juveniles, individuals on probation or

ly reevaluate the motives of these individuals.

### DEPARTMENT POLICY

Agencies should not leave the management of drug informants exclusively to investigators. Formulating a written policy ensures consistency in the use and management of CIs and serves as a guide for inexperienced investigators.

The policy should indicate which investigators may maintain informants, as well as who will supervise these CIs. In addition, the policy should clearly establish that informants are assets of the department, not of individual investigators. In this regard, management should both authorize and encourage investigators to share informants. Also, checks and balances must be in place to ensure that the policy is followed.

Policy concerning the management of confidential informants should establish procedures in several areas. These include creating and documenting informant files, debriefing and interacting with informants, and determining methods and amounts of payments for services rendered.

### The Informant File

Investigators should formally establish files for CIs who regularly furnish information to investigators, as well as for those who expect compensation for information they supply. Informant files document the investigators' interaction with them. In fact, investigators should



parole, individuals currently or formerly addicted to drugs, felons with multiple convictions, and individuals known to be unreliable.

Investigators should not use these individuals as informants until a supervisor approves them. In fact, because these informants require special scrutiny, only senior investigators should handle them. Furthermore, investigators must constant-

not use any source that cannot be documented.

Although investigators should document their contacts with CIs, not everyone in the department needs to know an informant's identity or have access to informant files. Access should be on a "need-to-know" basis, including only those investigators and their supervisors who deal directly with the informant.

To further protect informants' identities, investigators should use code numbers in lieu of informants' names in investigative reports. Informants should keep the same number throughout their working relationships with the department.

The informant file should include information pertaining to the CI's vital statistics, such as physical description, work and home addresses, vehicles driven, contact telephone numbers, next-of-kin, etc. NCIC searches, completed before the informant is used and then systematically thereafter, ensure that the informant has no outstanding warrants. These records should be kept in the informant's file, along with the CI's photograph, fingerprints, and FBI and State "rap" sheets.

Establishing an informant file sends a not-so-subtle message to CIs that investigators document every encounter and verify all information that CIs supply. Such documentation may also deter a perversely motivated informant.

In addition, informant files enhance the credibility of the department in the eyes of the court and the public, who view CIs as inherently unreliable and who may believe that the agency fabricated

information. Therefore, every time the informant provides information concerning an actual or potential criminal matter, the agency should include a written report detailing this information in the file. The original should remain in the CI file, and a copy should be maintained with the case file.

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official business.***

The department must also document what steps it takes to corroborate information provided by the CI. This is especially important when informants act unilaterally. As a matter of policy, all CI information should be verified regardless of the CI's past reliability.

#### **Informant Debriefings**

Each time investigators initiate investigations based on information received from a CI, the designated handler should interview and debrief the CI in order to ascertain the informant's motive(s) and to advise the informant of the department's rules. For example, informants should know that they carry no official status with the department, that the department will not tolerate their breaking the law or entrapping suspects, and that the department cannot guarantee that they will not be called as witnesses in court.

At the end of the interview, the investigator should put this information in writing in an "informant agreement." This agreement should be signed by the informant, witnessed by the handler, and placed in the informant's file. Investigators should debrief their informants on a regular basis—for example, every 30, 60, or 90 days—to keep them active, or if necessary, to terminate their association with the department due to lack of productivity.

#### **Investigator-Informant Contact Procedures**

The department must establish investigator-informant contact procedures and train employees in their use. For example, the handler should meet with the informant in private, if possible, but always in the presence of another investigator. In fact, the department should either strongly discourage or prohibit investigators from contacting informants alone, especially if the officer plans to pay the informant. Meeting with or paying a drug informant alone leaves the officer and the department vulnerable to allegations of wrongdoing.

Although informant handlers often develop special working relationships with their informants, department policies should preclude contact with informants outside the scope of official business. Investigators must keep their relationships with CIs strictly professional. This is particularly important when the informant and the investigator are not of the same sex. Policies should also expressly prohibit such contact as socializing with informants and/or their families, becoming romantically involved with or



## Seven Steps To Successful Informant Management

Following these steps will greatly enhance the likelihood of managing informants successfully.

- 1. Identify potential informants.** Recognize potentially productive informants. Investigators develop this skill with experience.
- 2. Recruit informants.** Establish a rapport and explain the department's policy on awards and rewards in order to recruit informants.
- 3. Document all contacts.** Document and maintain informant files to give a true picture of performance. Update files whenever changes occur.
- 4. Develop relationships.** Know the limitations of individual informants, but do not accept anything less than their maximum effort.
- 5. Maintain relationships.** Keep informants active by exposing them to situations that enhance, not limit or restrict, their ability to perform at their maximum potential.
- 6. Use informants to the fullest.** Continue to use informants to keep them from losing interest. Encourage other investigators to task these informants.
- 7. Control informants.** Manage informants successfully by controlling them. Investigators cannot allow informants to run investigations, regardless of how insistent or argumentative they become. Investigators ultimately make the decisions during cases, and informants must realize this.

conducting nonpolice business with them, and accepting gifts or gratuities from them.<sup>2</sup>

To ensure adherence to department policy, supervisors should review informant files regularly. In addition, they need to attend debriefings periodically to oversee the entire informant management process.

Finally, department administrators must establish procedures for investigating alleged policy violations by investigators or informants. Thorough investigations of this type maintain the integrity of the department by dispelling any notion that the department does not enforce its own policies.

### Informant Payments

CI payments can be divided into two distinct categories—awards and rewards. Awards take a monetary form. They are based on a percentage of the net value of assets seized during a drug investigation as a result of information provided by a CI. Advising the informant of the exact amount of the percentage at the beginning of the case provides incentive for the CI to seek out hidden assets that might otherwise go undetected. However, because payments based on seized assets are not universally accepted in the courts, the investigator should consult the case prosecutor before promising a specific amount to the informant.

Rewards, on the other hand, do not represent a percentage of the value of the seized assets. Amounts are usually determined by the type and quantity of drugs seized, the quality of case produced, the number of defendants indicted, the

amount of time and effort the CI exerted, and the danger faced by the CI during the course of the investigation. Unlike awards, rewards come directly from an agency's budget.

While an informant might receive money as a reward, many informants cooperate with law enforcement agencies to receive a reduced sentence for a pending criminal matter. Regardless of the form of compensation, the department's policy must address under what circumstances an informant qualifies for an award and/or reward, who can authorize such payments, and under what conditions payments will be granted.

Although many informants receive substantial *awards* when they locate the assets of drug dealers, agency budgets may limit the dollar amount of *rewards* paid to informants. For this reason, investigators should exercise caution when explaining the payment policy to informants. They should avoid mentioning a specific dollar amount the informant will receive. Otherwise, the informant may try to hold the department to that amount, regardless of future budgetary constraints.

In addition to providing awards and rewards, departments can reimburse informants for expenses incurred during an investigation. In fact, the department may wish to reimburse the CI with small amounts of money beyond actual expenses as added incentives to continue working.

It is highly recommended that informants be paid only in the presence of witnesses, with the final payment being made after all court

proceedings have been completed to help ensure the informant's presence at the trial. Once a payment is made, a record documenting the date, exact amount, and who made the payment must be included in the CI file in anticipation of future court inquiries.

### OTHER CONSIDERATIONS

Agencies should conceal informants' connections to the department. Informants should not receive business cards that imply they work for the department. This will also prevent CIs from posing as investigators.<sup>3</sup>

### CONCLUSION

A clear, written policy on establishing and handling informants serves not only as a guide for inexperienced investigators but also helps to ensure that all investigators handle informants consistently and correctly. This protects both the department and its personnel.

Confidential informants may be the best assets law enforcement agencies have at their disposal. Whether acting out of a feeling of honor or a love of money, they can provide valuable information that often leads to successful prosecutions. Officers who learn to handle these informants effectively—whatever their motives—can help society win the war on drugs. ♦

#### Endnotes

<sup>1</sup> Drug Enforcement Administration, *Agents Manual*, Appendix B, "Domestic Operations Guidelines," sect. B.

<sup>2</sup> DEA Integrity Assurance Notes, Volume I, Number 1, Aug. 1991.

<sup>3</sup> Supra note 1, sec. 6121.2A.

## Wanted: Photographs

The Law Enforcement staff is always on the lookout for dynamic, law enforcement-related photos for possible publication in the magazine. We are interested in photos that visually depict the many aspects of the law enforcement profession and illustrate the numerous tasks law enforcement personnel perform.

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