
Table of Contents

Series Note	xxi
Preface	xxiii
Author	xxvii

1	Historical Background	1
1.1	The Crown Jewels	1
1.2	Political Weapons and Cure-Alls for Crime	2
1.3	Blood Money Certificates and the Reward Statutes	3
1.4	Informants and Official Corruption: The Thief Taker General of Great Britain and Ireland	4
1.5	Eugene Vidocq: From Informant to Chief of the French Sûreté	4
1.6	Washington, Nathan Hale, and the Culper Spy Ring	5
1.7	The Civil War, Slaves as Undercover Operatives, and the Lincoln Law	6
1.8	Police Departments, Detective Bureaus, and Informants	7
1.9	Emergence of Federal Law Enforcement Agencies	8
1.10	John Dillinger and the Lady in Red	9
1.11	Unlikely Informants: Mirroring the Cause of Their Day	9
1.11.1	Julia Child and the Office of Strategic Services	9
1.11.2	Ronald Reagan	10
1.11.3	Gerald Ford	11
1.11.4	Sara Jane Moore: Would-Be Assassin	12
1.11.5	Ernest Withers: Original Civil Rights Photographer	12
1.11.6	Gregory Scarpa: The Grim Reaper and Mississippi Burning Revisited	12
1.11.7	The Dalai Lama	15
1.11.8	Timothy Leary: Most Dangerous Man in America	15
1.11.9	Former New York Yankees Owner	16
1.11.10	General Manuel Noriega	17
1.12	War on Drugs and Terror	18
1.13	A Valuable but Dangerous Tool	18
	Endnotes	19

2	Informants, Cooperating Witnesses, and Sources Defined	23
2.1	Introduction	23
2.2	Informant, Cooperating Witness, or Good Citizen?	24
2.2.1	Confidential Informant	25
2.2.2	Cooperating Witness	25
2.2.3	Sources of Information: The Good Citizen	26
2.3	Autonomy of Terms	26
2.3.1	State and Local Police Agencies	26
2.3.1.1	Florida	26
2.3.1.2	Miami, Florida	27
2.3.1.3	Denver, Colorado	28
2.3.1.4	California Police Officer Standards and Training	28
2.4	Federal Law Enforcement Agencies	29
2.4.1	Federal Bureau of Investigation	29
2.4.1.1	Confidential Human Sources	30
2.4.1.2	Whistleblowers	31
2.4.2	Drug Enforcement Administration	32
2.4.2.1	Confidential Source	32
2.4.2.2	Source of Information	33
2.4.3	Department of Homeland Security	34
2.4.3.1	Confidential Source	34
2.4.3.2	Non-Confidential Sources	34
2.4.4	Internal Revenue Service	34
2.4.4.1	Confidential Informant	35
2.4.4.2	Cooperating Witness	35
2.4.4.3	Source of Information	35
2.4.5	Central Intelligence Agency	35
2.4.5.1	Assets	36
2.4.5.2	Defectors	36
2.4.5.3	Case Officers	36
2.4.5.4	NOCs: No official Cover	37
2.5	International Criminal Justice Community	37
2.5.1	Council of Europe	37
2.5.1.1	Collaborator of Justice	38
2.5.1.2	Witness	38
2.5.2	United Nations	38
	Endnotes	40
3	Motivations for Cooperation	45
3.1	Introduction	45
3.2	Money	45

3.3	Fear	47
3.4	Revenge	47
3.4.1	Case Study: Joe Dogs and Operation Home Run	48
3.5	The Jailhouse Informant and Incentivized Testimony	48
3.5.1	DNA and the Innocence Project	49
3.5.2	Police Targeting Suspect Prisoners	50
3.6	Repentance	51
3.7	Burning Bridges and Starting a New Life	52
3.7.1	Case Study: The DEA's Princess	52
3.8	Excitement and the James Bond Syndrome	53
3.9	Police Buff	53
3.10	Perversely Motivated Informants aka Double Agents	54
3.11	Altruism	55
3.11.1	Case Study: Altruism or Money?	55
3.12	Ego	56
3.12.1	Case Study: FBI Day of Terror Informant	56
3.13	Fear of Deportation and Visas	57
3.14	The Unwitting Informant	57
3.15	Good Citizen Informant	58
3.15.1	Good Citizen or Agent of the State?	58
3.15.2	Post-9/11 Law Enforcement and the Good Citizen	62
	Endnotes	62
4	Recruiting Informants	69
4.1	Introduction	69
4.2	Outsourcing Undercover Work	70
4.3	Pressure to Recruit Informants	70
4.4	Recruiting Guidelines	71
4.5	Realities of the Law Enforcement Profession	72
4.6	Working Off a Charge: The Quid Pro Quo of the Street	72
4.7	Fabricating Probable Cause and Perjury	73
4.8	Fighting the Charges	74
4.9	Timing the Recruiting Effort	75
4.10	Squeezing Suspects	76
4.11	Cultivating Informants	76
4.12	Offering Protection	77
4.13	Walk-In Informant	78
4.14	Historical Cases	79
4.15	Illegal Aliens and Snitch Visas	79
4.15.1	S Visas	80
4.15.2	S-5 Visas and Criminal Investigations	81
4.15.3	S-6 Visas and Terror Investigations	81

4.15.4	T Visas and Federal Human Trafficking Investigations	82
4.15.5	U Visas and State and Non-Federal Trafficking Prosecutions	82
4.15.6	Continued Presence	83
4.15.7	Significant Public Benefit Parole and Ongoing Criminal Investigations	83
4.15.8	Deferred Action	83
4.15.9	Administrative Stay of Removal	84
4.15.10	Breaking Visa Promises	84
4.17	Recruiting Terror Informants	84
4.18	The New FBI: A Global Counterintelligence Organization	86
4.19	Recruiting Political Infiltrators	88
4.20	Not New Territory: COINTELPRO	88
4.21	Operation CHAOS and the CIA's Family Jewels	90
4.22	Domestic Terror Human Source Recruiting and Domain Management	91
4.23	Targets of Opportunity	92
4.23.1	No-Fly and Selectee List	92
4.24	NYPD Counterterrorism Bureau and Recruiting Terror Informants	93
4.24.1	Informant-Recruiting Infrastructure: The Terrorist Interdiction Unit and Mosque Crawlers	95
4.24.2	The Demographic Unit and Ancestries of Interest	96
4.24.3	The Special Services Unit and Rakers	96
4.25	NYPD International	98
	Endnotes	98
5	Plea-Bargaining, Substantial Assistance, and Downward Sentencing Departures	107
5.1	Introduction	107
5.2	Law Enforcement Officers and Plea Negotiations	107
5.3	Prosecutorial Discretion	108
5.4	Plea Bargaining: Let's Make a Deal	108
5.5	Risk of Trial: An Innocence Problem	109
5.5.1	Drug Cases and the Gun Bump	110
5.6	United States Sentencing Guidelines and Prosecutorial Discretion	110
5.7	Shifting the Balance of Power in the Court	111
5.7.1	<i>Booker v. United States</i>	112
5.8	Substantial Assistance and Downward Departures	112
5.9	Case Study: Sammy "The Bull" Gravano	112

5.10	Minimum Mandatory Sentences	114
5.11	Section 5K1.1	114
5.12	In-Camera Hearing and Sealing	115
5.13	Case Studies: White-Collar Criminals	115
5.14	Big Fish versus Little Fish	117
5.15	Drug Defendants and the Safety Valve	118
5.16	Reducing Cooperation Agreements to Writing	118
5.17	Proffers, Non-Prosecution Agreements, and Immunity	120
5.18	Queen for a Day	120
5.19	Non-Prosecution Agreements	121
5.20	Immunity	122
5.20.1	Case Study: Immunity and a Federal Case That Imploded	123
5.21	Prisoners and Rule 35	124
5.22	Surrogate and Third-Party Cooperation	124
5.23	Sentence Reduction Scams and Schemes	126
5.23.1	Rent-a-Rat	126
5.23.1.1	5K1s and the Cartel of Snitches	126
5.23.1.2	Defense Attorney Windfall	129
Appendix 5A:	U.S. Attorney's Ground Rules Letter Regarding Proffer	130
Appendix 5B:	Cooperating Witness Agreement and Waiver	131
Appendix 5C:	Prosecutor's Ground Rules Letter to Attorney for Cooperating Witness	133
Appendix 5D:	Substantial Assistance Agreement	134
Endnotes		137

6 Documentation, Registration, and the Confidential Source File 145

6.1	Introduction	145
6.2	Resistance to Documenting Informants	145
6.2.1	Operating Unregistered Informants	146
6.3	Informant File	147
6.3.1	Code Numbers and Code Names	147
6.4	Documentation Data Format	148
6.4.1	Tax Responsibilities	153
6.5	Informant Conduct Agreements	153
6.6	The Miami-Dade Police Department	158
6.7	Confidential Informant File Content	159
6.8	Supervisor Approval and Oversight	160
6.9	Documentation and Disclosure: <i>Brady</i> and <i>Giglio</i>	161
6.10	Protecting Sources, Parallel Construction and Discovery	162
6.11	Phantom Informants	163
6.11.1	Long History of Phantoms	163

Appendix 6A: Source Identification Card	165
Appendix 6B: Confidential Source Establishment Report	166
Appendix 6C: Statistical Accomplishments Form	170
Appendix 6D: Source Criminal History Check	171
Appendix 6E: Source File Chronology	172
Appendix 6F: Supervisor's 60-Day Informant File Review Log	172
Appendix 6G: Defendant's Motion for Disclosure of Confidential Informants	173
Appendix 6H: DEA Source Debriefing Guide	175
Endnotes	192
7 Sources of Compensation for Informants	199
7.1 Introduction	199
7.2 Putting a Price Tag on Information	199
7.2.1 Case Study: Informant Fire	203
7.3 Immigration and Customs Enforcement	204
7.3.1 Purchase of Information	204
7.3.2 Commissions	204
7.3.3 Personal Assistance Agreement	205
7.3.4 Confidential Informant Expenses	205
7.3.5 Violator/Trafficker-Directed Funds	206
7.3.6 Undercover Businesses: Proprietary Operations	206
7.4 Federal Bureau of Investigation	207
7.4.1 Lump-Sum Payments	208
7.4.2 Rewards	208
7.4.3 Forfeiture Awards	208
7.4.4 One-Time Non-Confidential Human Source Payment	209
7.5 Drug Enforcement Administration	209
7.5.1 Calendar Year Cap	210
7.5.2 Lifetime Cap	210
7.5.3 Accountability	210
7.5.4 Tax Responsibilities	211
7.6 State Department Rewards for Justice	211
7.6.1 Bureau of International Narcotics and Law Enforcement: Narcotics Reward Program	211
7.7 Central Intelligence Agency	212
7.8 Forfeiture Awards	212
7.8.1 Department of Justice Asset Forfeiture Fund Awards	213
7.8.2 Civil and Criminal Forfeiture	214
7.8.2.1 Award Type I	215
7.8.2.2 Award Type II	215

7.8.3	Calculating Informant Forfeiture Awards	216
7.9	Informant Lawsuits	217
7.9.1	The DEA Princess Suit	217
7.10	Pressure to Seize Forfeitable Assets	218
7.11	State and Local Pressure for Forfeitable Assets	219
7.12	Kickbacks, Corruption, and Informant Payments	220
7.12.1	U.S. Customs Agent Takes Share of Informant Forfeiture Award	220
7.12.2	Press Release: Former ICE Agent Pleads Guilty in Kickback, Obstruction Scheme	220
7.12.3	Drugs for Information: Noble Cause Corruption	221
Appendix 7A:	Drug Enforcement Administration Voucher for Purchase of Evidence/Payment for Information/Services	222
Appendix 7B:	Statistical Accomplishments Form	223
Appendix 7C:	Statutes Enforced by Federal Investigative Agencies That Permit Equitable Sharing with State and Local Agencies	224
Appendix 7D:	Personal Service Agreement	227
	Endnotes	231
8	Whistleblowers: The Justice Department, the Securities and Exchange Commission, and the Commodities Futures Trading Commission	237
8.1	Introduction	237
8.2	The Securities and Exchange Commission	240
8.3	Commodities Futures Trading Commission: Misappropriation and Ponzi Schemes	242
8.3.1	Who Can Be a CFTC Whistleblower?	243
8.3.2	Will the CFTC Keep My Identity Confidentiality?	244
Appendix 8A:	The False Claims Act: 31 U.S. Code § 3729	244
Appendix 8B:	False Claims Act Relator Share Guidelines	246
Appendix 8C:	Form TCR: Tip, Complaint or Referral	248
	Endnotes	263
9	Corroboration of Informant Information	267
9.1	Trust but Verify	267
9.2	Traditional Investigative Methods to Cutting-Edge Technology	268
9.2.1	Physical Surveillance	268
9.2.2	Consensual Telephone Recordings	269

9.2.3	Concealed Transmitters and Recording Devices	270
9.2.3.1	Concealed Transmitters	270
9.2.3.2	Video Surveillance	271
9.2.4	Personal Computers and Network Investigative Techniques	272
9.2.5	Global Positioning System Devices	272
9.2.6	Polygraphing Informants	272
9.2.6.1	FBI Counterterrorism and Counterintelligence Investigations	273
9.2.6.2	Office of Enforcement Operations	273
9.2.6.3	Public Integrity Section	274
9.2.6.4	The Witness Security Program and the Polygraph	274
9.2.6.5	WITSEC Security Breaches	274
9.2.7	Telephone Records	275
9.2.8	Pen Registers and Trap-and-Trace Devices	276
9.2.9	Mail Covers	277
9.2.10	Credit Card and Financial Records	277
9.2.11	Trash Pulls	278
9.2.12	Cameras	278
9.3	Corroboration through Electronically Stored Information	279
9.3.1	E-communications	279
9.3.2	Tracking and “Push Marketing”	280
9.4	Law Enforcement Online	280
9.4.1	National Data Exchange	280
9.4.2	U.S. Marshals Joint Automated Booking System	281
9.4.2.1	Intelink	281
9.4.2.2	Regional Information Sharing Systems Network	282
9.4.2.3	National Gang Intelligence Center	282
9.4.2.4	Homeland Security Information Network	282
9.5	Intelligence Work Product and Fusion Centers	282
9.6	Corroboration through Public Record Sources	284
9.6.1	Case Study: The Castro Cocaine Connection	287
	Appendix 9A: Application for Video Surveillance	289
	Appendix 9B: Order for Video Surveillance	292
	Appendix 9C: Affidavit for Search Warrant for Tracking Device	294
	Appendix 9D: Cellphone (Mobile Device) Search Warrant Affidavit	296
	Appendix 9E: Application for Trap and Trace/Pen Register	301
	Appendix 9F: Order for Trap and Trace/Pen Register	303

Appendix 9G: Application for Order Permitting Government to Use Its Own PenRegister/Trap and Trace Equipment (Triggerfish/Digital Analyzer or Similar Device)	305
Appendix 9H: Order Permitting Government to Use Its Own PenRegister/Trap and Trace Equipment (Triggerfish/Digital Analyzer or Similar Device)	306
Endnotes	307
10 Informants and Search Warrants	313
10.1 Introduction	313
10.2 Wrong-Door Raids	314
10.3 Controlled Search-Warrant Buys	315
10.3.1 Initial Informant Debriefing: Never Trust an Informant	316
10.3.2 Determine Informant's Motivation	316
10.3.3 Corroboration	316
10.3.4 Identifying Target Location	317
10.3.5 Identify Suspects	317
10.3.6 Contraband to Be Seized	318
10.3.7 Officer Safety Issues	319
10.3.8 Search of Informant and Vehicle	319
10.3.9 Funds Provided for the Purchase of Evidence	320
10.3.10 Recording Devices and Body Wires	320
10.3.11 Suspect Searches Informant	321
10.3.12 Observe the Informant Entering and Exiting the Location	322
10.3.13 Post-Buy Meeting and Informant Search	322
10.3.14 Follow-Up Informant Debriefing and Statement	323
10.3.15 Search Warrant Affidavits	324
10.3.16 Attacking the Search-Warrant Affidavit: Franks Hearings	325
10.4 Non-traditional Search Warrants	326
10.4.1 Telephonic Search Warrants	326
10.4.2 Anticipatory Search Warrants	326
10.4.3 Sneak-and-Peek Search Warrants	327
10.5 Keeping the Confidential Informant Confidential	327
Appendix 10A: Affidavit for Search Warrant	328
Appendix 10B: DEA Raid Execution Process	330
Appendix 10C: Operational Plan Format	332
Endnotes	334

11	Controlled Purchases of Evidence by Informants	343
11.1	Introduction	343
11.2	Advance Planning	344
11.3	Case Study: The Robbery and Murder of Informant Rachel Morningstar Hoffman	345
	Appendix 11A: Tallahassee Police Department Confidential Informant Code of Conduct	358
	Appendix 11B: Guidelines for Florida State and Local Law Enforcement Agencies in Dealing with Confidential Informants	360
	Appendix 11C: Florida's Confidential Informant Law: "Rachel's Law"	364
	Endnotes	367
12	Undercover Investigations : Reversals and Sting Operations	371
12.1	Introduction	371
12.2	Casual Undercover	371
12.3	Moderate Undercover	372
12.4	Long-Term Undercover	372
12.5	Deep Undercover	372
12.6	Training and Risk Management	372
12.7	Undercover Operation Proposal	373
	12.7.1 Preliminary Activities	373
	12.7.2 Potential	374
	12.7.3 Security	374
	12.7.4 Safety	374
	12.7.5 Significance	374
	12.7.6 Sensitive Circumstances	374
12.8	Prosecutor Concurrence	374
12.9	Informants and Otherwise Illegal Activity	375
	12.9.1 Tier 1 and Tier 2	375
	12.9.2 Reporting Otherwise Illegal Activity	377
	12.9.3 Informants Profiting from Otherwise Illegal Activity	378
12.10	Reverse Undercover Drug Investigations	378
12.11	Blue-on-Blue Reversals	380
	12.11.1 Case Study: Reversals and Robbery	380
12.12	State and Local Reverse Undercover Operations	383
12.13	Reversals and the Entrapment Defense	383
	12.13.1 Legal Standard	383
	12.13.2 Outrageous Government Conduct	384

12.13.3 Sentencing Entrapment and Sentencing Manipulation	385
12.14 Case Study: The ATF and Churning Investigations	385
12.15 Money Laundering Sting Operations	386
12.15.1 Money Laundering Sting Operations: Operation Swordfish	387
12.15.2 Sensitive Activities Review Committee Investigation	388
12.15.3 Operation Casablanca	389
12.15.3.1 Informant Reward	390
12.15.4 Operational Results	391
12.15.5 Equitable Sharing of Proceeds	391
12.16 State and Local Money Laundering Task Forces	391
12.16.1 South Florida Impact Task Force	391
12.16.2 South Florida Money Laundering Strike Force	392
12.16.3 Tri-County Money Laundering Task Force, Bal Harbour, Florida	393
12.17 Controlled Deliveries	393
12.17.1 Controlled Delivery with a Cooperating Individual and Blind Mules	394
12.17.2 Cold Convoys: Controlled Deliveries with a Noncooperating Violator	394
12.17.3 Controlled Importation: Transportation Cases	395
12.17.4 Controlled Exportation	395
12.17.5 Labor-Intense Operations	395
12.18 Terror Stings and Proactive Preemption	396
12.18.1 Oracle and Operation Flex	396
12.18.2 Fantasy Terror Operations and Entrapment	397
12.18.3 Liberty City Seven	398
Appendix 12A: Application for Authorization to Conduct an Undercover Operation	400
Appendix 12B: Memorandum of Understanding Between the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and Local Police Department	404
Appendix 12C: South Florida Money Laundering Strike Force Voluntary Cooperation Mutual Aid Agreement	413
Endnotes	438
13 Controlling Informants and Institutional Ethics	445
13.1 Introduction	445
13.2 Informants, Agent Integrity, and Corruption	445
13.3 Supervisory Oversight	446

13.4	Deadly Consequences	447
13.5	Pressure to Recruit Informants	448
13.6	Control and the War of Wills	448
13.7	Levine Memorandum: Agents Working for an Informant	450
13.8	Prosecutors Falling in Love with Rats	452
13.9	Case Study: The El Rukn Prosecution	453
13.10	Government Liability for Torts Committed by Informants	455
13.10.1	Scope of Employment	455
13.10.2	Everything Secret Degenerates: James “Whitey” Bulger and Stephen “The Rifleman” Flemmi	455
13.11	Informants Murdering Informants: Wrongful Death Lawsuits	459
13.11.1	The Castucci Murder	459
13.11.2	The Wheeler Murder	459
13.11.3	The Callahan Murder	460
13.11.4	The Halloran Murder	461
13.11.5	The McIntyre Murder	462
13.11.5.1	The McIntyre Lawsuit	466
13.11.5.2	The Fallout	466
	Endnotes	468
14	Witness Security Program: Falling Off the Face of the Earth	475
14.1	Introduction	475
14.2	Getting into the Program	478
14.3	Threat Assessment	479
14.4	Risk Assessment	479
14.4.1	Arthur Katz and the Stock Market Crash of 1987	481
14.4.2	James Allen Red Dog	481
14.5	Memorandum of Understanding	482
14.6	Falling Off the Face of the Earth: Entering the Program	483
14.7	Safe Site and Orientation Center	484
14.8	Employment as a WITSEC Member	487
14.9	Witness Rewards	488
14.10	Hiding in Plain Sight	488
14.11	Children: The Weak Link	489
14.12	WITSEC Participants as Informants	490
14.13	Ejection from WITSEC	491

Table of Contents	xix
14.14 Terror Witnesses: New Challenges	492
14.15 Immigration Benefits	493
14.16 Alternatives to WITSEC	493
14.16.1 Federal Bureau of Investigation	494
14.16.2 Drug Enforcement Administration	494
14.16.3 Bureau of Alcohol, Tobacco, Firearms, and Explosives	495
14.16.4 Immigration and Customs Enforcement	495
14.16.4.1 Case Study: Informant Murders Relocated Informant	495
14.17 CIA Defector Program: National Resettlement Operations Center	498
14.17.1 Defector Lawsuits and the Totten Doctrine	501
Appendix 14A: 18 U.S. Code § 1512-Tampering with a witness, victim, or an informant	503
Endnotes	506
Index	515