

Title: **[intel] DEA Training Manual -- Confidential Informants**

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Confidential Informants

Drug law enforcement operations rely heavily on the use of confidential informants as the general public does not usually report drug crimes. A drug agent's professional accomplishments are directly related to his or her ability to recruit and manage a steady stream of diverse confidential informants (CIs).

Drug informants are arguably the most difficult among all informants to control and manage. However, the chances of successfully managing them are increased significantly when drug agents know what motivates them to provide information to the police.

Although CIs are a necessary tool in drug law enforcement, they must be carefully scrutinized for hidden motives. Drug agents are cautioned not to take anything a CI has to offer at face value, and to always corroborate their information either through surveillance, records, or even polygraph examinations, if warranted.

The nature of drug cases often requires a CI to become closely involved with traffickers and their police handlers alike. They are asked to befriend drug dealers for the purpose of gaining their confidence so they may later be arrested. The personal relations drug informants develop with criminals can sometimes lead them into unethical, immoral, or illegal conduct.

Some egotistical informants have personalities that make them difficult, if not almost impossible to manage. These individuals often have questionable motives for offering their services to law enforcement. When drug agents do not tightly control their informants, safety problems arise, placing department resources and personnel at risk. Each time an informant offers information, drug agents should question his motives and discontinue using him if he is not willing to accept his handler's specific direction. This chapter explains the most common motivational factors leading people to become informants, the professional working relationships that must exist, and the steps that must be taken to successfully manage them. Methods of keeping the informant's identity confidential are identified in order to protect him from retaliation and keep him a viable asset for future counter-drug operations. The chapter also explains how to properly use a CI to make a controlled purchase of drugs.

Purpose of Informants

Drug informants are used most frequently for the following reasons:

To gather information from sources not readily available to law enforcement officers. Police have long depended on informants to provide them with information they would never otherwise receive. Because of the clandestine nature of the drug world, specific information about upcoming drug transactions, where drugs are being manufactured, and how they are transported is only known by those involved in the crime. Informants within drug organizations play a vital role in obtaining this needed information for law enforcement.

To make observations in places where strangers would immediately be suspect. Many drug investigations require that surveillance operations be conducted within communities that are suspicious of strangers. Using informants who are accepted within these communities will lower the level of suspicion that a police operation is underway, and makes criminals operating in the area feel more comfortable. Unfamiliar faces in an area may raise suspicions that might force them to go deeper underground or change their modus operandi.

To conduct undercover negotiations. Since drug dealers realize that a common drug law enforcement investigative technique is to infiltrate their organization with undercover agents, they frequently will not interact with strangers. Many dealers build up their businesses by not dealing with strangers, and they are not willing to take a risk with a new person, regardless of what he or she may have to offer. With proper direction and guidance, informants can take the place of an undercover drug agent in negotiating the purchase of drugs from a targeted drug dealer. When doing so, the drug agent should electronically record the conversation to corroborate exactly what the informant told the dealer, and what the dealer told the informant. Informants may be reliable in many cases, but they are not infallible. A recording device will capture all that was said, and nothing will be lost through faulty memory. A tape recording of the informant's conversation with the drug dealer will also keep him honest.

To gain firsthand, timely intelligence. Since informants have the ability to interact with criminals in both professional and social settings, they are in an excellent position to obtain information about crimes that have occurred or are about to occur. Police must still corroborate the informant's information before any action is taken. Timely intelligence information provided by informants may later be the basis for search warrant affidavits, arrest warrants, or seizure warrants for drug proceeds, property, or money.

Motivational Factors

Like many people, informants need motivation to produce. The more motivated they are, the more likely they are to apply themselves to the task at hand and remain committed to achieving success. Identifying an informant's true motives for providing drug agents with information increases the chances of conducting an effective and safe drug operation. If a drug agent believes that the informant is providing information because he is repentant for past crimes, when in actuality he is there to learn police intelligence and their methods of operation in order to avoid detection himself, a disaster is in the making.

Informants commonly voice a specific motive for providing information, however as the case progresses, other more compelling reasons may surface. Some of the more common motivational factors encountered by drug agents are fear, revenge, money, repentance, and sometimes altruism. However, often times an individual's ego and compulsion to play a role in something important and exciting drives the individual to become an informant.

Walk-In/Call-In Informants

Drug agents need to be good listeners and carefully evaluate a first time informant's information being offered over the telephone. Someone who visits the drug agent's office offering information must be scrutinized for what is motivating him or her to take this initial step. A thorough interview will often reveal clues as to what is motivating this person to come forward. Their information cannot be discounted simply because the person is not willing to meet with a drug agent in person. Drug agents should obtain identifying information and a callback telephone number whenever possible. The

informant should be encouraged to submit to a face-to-face meeting if the informant's information appears actionable.

Fear

The most frequent motivation leading someone to provide information is the fear of going to prison. Fear is a strong motivator when someone has just been arrested and faces the probability of years of imprisonment for committing drug crimes.

Drug agents will attempt to convince a newly arrested suspect to immediately provide information leading to other arrests in the ongoing investigation. Drug agents must convince the potential informant that this may be his only opportunity to help himself in his pending legal matter. The agent must never promise a reduced sentence or other consideration, but can assure the person that his cooperation will be made known to the prosecutor and the court at a future date. He should know that his lack of cooperation will also be brought to the attention of the prosecutor and court.

A typical scenario may be this: a suspect has agreed to deliver a quantity of drugs to an undercover drug agent. Upon delivering the drugs, the suspect is arrested and taken into custody. Drug agents will frequently question the suspect at the scene of the arrest, and solicit his cooperation in helping them immediately expand their investigation. They will ask the arrested person who his drug source of supply is and where more drugs are located.

Drug agents know that fear will often motivate a suspect to cooperate in the investigation once he realizes how much punishment he is likely to receive if convicted of the crime, especially if the person has prior drug arrests (see Chapter 10). This fear tactic may induce him to make a recorded telephone call to his drug source in the hopes of getting him to acknowledge furnishing the drugs, thereby making him also subject to indictment.

Depending on the particular circumstances, drug agents may ask the arrested person to immediately telephone his source to set up a meeting on the pretense of paying for the drugs just delivered, or to deliver more drugs for another sale. If the drug agents are successful in luring the source of supply out in the open and can arrest him, they will attempt to convince him to also cooperate. The technique of convincing a person to cooperate against co-conspirators is commonly known as flipping the suspect.

It should be noted that once it becomes public knowledge that someone has been arrested on drug charges, other members of the conspiracy often assume the suspect is cooperating with drug agents and may identify other members of the conspiracy. Because of this assumption, co-conspirators will usually avoid the arrested suspect and cut off all forms of communication with him for fear he is setting them up to be arrested. Swift action must be taken by drug agents to seize the opportunity before other co-conspirators realize what has happened. Defendant-informants, however, may still be valuable in testifying against other members of the conspiracy in return for legal consideration.

Informants may also be motivated to cooperate with drug agents to protect them from their criminal associates. Some may think that by having their criminal associates arrested, they will protect themselves from retribution and will not have to pay for any drugs their source of supply advanced or fronted them on consignment.

Fear in the mind of a drug dealer can also stem from a member of a drug conspiracy

falsely accusing him of being an informant and cooperating with the police. In order to seek self-preservation, money, or both, they will often become informants.

Revenge and Jealousy

Both revenge and jealousy have historically motivated people to do things they might not normally do. Jealousy may stem from love or money, but business disputes between competing drug criminal organizations may prompt revenge.

Drug agents should be wary of informants who seek to eliminate their own drug dealing competition. Nothing prevents a drug agent from using this information to target the competing drug dealer. However, once the competitor is arrested, the drug agent should solicit his help in eliminating the informant's drug enterprise as well.

Repentance

Informants often claim they are repentant for past crimes, but this is rarely the case. Expressions of repentance are sometimes used to convince the drug agent he or she is now a good person and wants to make amends for past deeds. However, this is seldom their only motive for cooperating. When drug agents encounter an informant who claims repentance as their sole reason for providing information, they must be cautious of hidden and sometimes devious motivational factors.

Altruism

Some individuals are motivated by a sense of self-sacrifice. People with professional obligations or feelings of responsibility frequently provide information to the police. Examples of altruistic informants include airline employees when they see something suspicious about a passenger or his baggage, or express delivery service employees who detect drugs in packages they are delivering. These informants are rarely involved in criminal activity, and their usefulness is limited.

Mercenaries

Some individuals provide information or services simply for money. These money-motivated informants, known as mercenaries, are usually the most willing to follow a drug agent's direction. They frequently have a history of criminal activity prior to their relationship with law enforcement. This familiarization with crime and criminals make them a valuable asset for drug agents who must rely on them to make frequent and personal contacts with drug traffickers to glean criminal intelligence. They often serve as a means of introducing an undercover drug agent to drug dealers on the pretense of being a buyer of narcotics or someone who can provide a specific service in the drug trade such as a transportation specialist or money launderer.

Money-motivated informants are expected to accompany the targeted drug dealer alone for much longer periods of time than would be practical for an undercover drug agent. Drug agents should be aware that they frequently possess other motives besides remuneration that must be explored. They are professionals deserving of respect and appropriate compensation if agents want them to continue providing information in the future. Payments to informants will be discussed in detail later in this chapter.

Egotism

These commonly encountered informants often have low self-esteem and may not have received positive reinforcement from their parents, authority figures, or peers when growing up. Consequently, as adults they seek positive reinforcement wherever they can get it and sometimes rely on anticipated positive feedback from their handlers for doing a good job. Drug agents who provide egotistical informants positive

reinforcement motivate them 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 to their handlers.

Egotistical informants wish to have an aggressive role in the undercover investigation in order to justify as much praise or money as possible. They will sometimes prolong an investigation unnecessarily in order to justify more money or praise. They are quick to remind their handling agent that if it were not for them, the case would never have happened. An informant in this category may demand payment for services rendered, but in reality, the praise he expects to receive from authority figures is the primary motivator for him becoming and staying an informant.

Drug agents who recognize egotistical informants for what they are should heap the praise he desperately seeks. To deny these informants praise could jeopardize future working relationships with him and may drive him to work with another drug agent or go to an entirely different agency to offer his services. The ego of the informant should not be in competition with the ego of the handling agent.

James Bond Syndrome

Some drug informants see their role as an opportunity to have their life imitate art. While working as informants they imagine themselves in a particular police or spy drama. Sometimes they will even orchestrate events to parallel a scene from a movie or chapter of a novel. Being especially hard to handle, these informants often exaggerate their knowledge of drug activity to enhance the likelihood of becoming an informant so they can play the role of their life. When an informant insists that an undercover operation be conducted in a particular or peculiar way or demands that he be issued a weapon, identification, or fancy vehicle, these are indicators he may be more interested in his role than the objective of the investigation.

These informants are rarely motivated to work for the police to make amends for past criminal activity, but rather give their motive for becoming an informant as something as noble as wanting to help win the war on drugs. Drug agents are advised to handle this type of informant carefully. Although the information they provide may be credible and easily verifiable, the informant cannot be allowed to take control of the investigation and dictate how it will be conducted. To do so wastes valuable time and resources while the informant plays out his fantasies. The informant's insistence on how to carry out a particular phase of the case may raise unnecessary safety concerns for drug agents and the informant alike. The informant's handler must control him by making it clear that although his suggestions will be seriously considered, the agent is the decision maker and his or her supervisor is the final authority on how the investigation will be conducted.

The Wannabe

Wannabe informants are usually people that from a very young age, wanted to become a law enforcement officer. For whatever reason though they did not qualify, either because of physical or psychological defects, and believe that becoming an informant is the only way left for them to fulfill their life's desire. Because they usually lack criminal associates, these individuals usually cannot provide specific information about drug traffickers, and thus do not make good informants.

Indicators that the drug agents may be dealing with a wannabe are when the prospective informant asks to see what the drug agent's badge and identification card look like or asks what the likelihood of him becoming a sworn officer is. Drug agents who use wannabe informants run the risk of the informant purposely implying to third

parties they are actually police officers. These informants also have a tendency to reveal their role to unconcerned parties, implying they have some sort of governmental authority, which they do not.

Perversely Motivated Informants

Perhaps the most dangerous and disruptive person a drug agent will encounter in drug law enforcement is a perversely motivated informant. They offer their services to law enforcement agencies for the purpose of identifying undercover agents, learning the department's methods, targets, and intelligence, or eliminating their own competition in the drug business. Sometimes criminal organizations, especially outlaw motorcycle gangs, instruct these individuals to infiltrate departments as informants and employees to learn whatever they can to assist the traffickers. These individuals may even provide genuine information about a specific event as a decoy to divert resources from a much more significant trafficking activity elsewhere.

Drug agents must constantly guard against providing more information to informants than the informants are providing to them. The information informant's gain from law enforcement agencies about their personnel, undercover vehicles, tactics, equipment, and particularly targets, is a valuable commodity that can be sold to traffickers or traded for drugs. These informants may also be seeking information to help in their own drug dealings in the future. (lulz!)

Drug agents should always minimize the exposure of undercover officers, their vehicles, and other informants to all informants in order to minimize damage to their operations in case they are working for drug traffickers or intend to do so. Criminals may threaten some informants or their families if they do not provide them with details on what information the police have concerning their drug trafficking activities.

Drug agents must question all walk-in and call-in informants, e.g., individuals who volunteer their services without prompting, because they may be, or have the potential of becoming perversely motivated. These potential informants should be told that their backgrounds will be thoroughly investigated, and that their fingerprints and photograph will be maintained in a file that will be established. Knowing that their backgrounds will be investigated may be enough to sway a potential informant from carrying out his perverse mission. Merely asking an informant to submit to a polygraph examination in order to substantiate his claims that he is not working for drug traffickers will often reveal his perverse activities.

Restricted-Use Informants

Some informants, by virtue of their extensive criminal backgrounds or status, pose special management challenges to both drug agents and supervisors. Drug unit supervisors should carefully scrutinize these individuals prior to using them as informants. Examples include juveniles, individuals on probation or parole, individuals currently or formerly addicted to drugs, felons with multiple convictions, and individuals known to be previously unreliable.

Drug agents should not use these individuals as informants without supervisory approval. Because these informants require special scrutiny and rigorous handling, only senior investigators should be assigned to manage them. Drug agents must constantly reevaluate the motives of these individuals.

Informants known to be previously unreliable should not be used except in the most extraordinary circumstances. They have shown, through their past actions, that they cannot be trusted or relied on to follow the directions of their handler. They will often

exaggerate their knowledge of drug activity in order to regain their informant status, which in itself is a reason to question their use.

Developing Confidential Informants

Every person a drug agent comes into contact with is a potential informant. As stated earlier, the most common pool of informants are criminals recently arrested that want to work off their legal dilemma. Informants are often shared by police agencies. Sometimes when an informant has specific information about a crime that cannot be investigated by his handler's agency, the handler will turn the informant over to the appropriate law enforcement agency to conduct the investigation. An example would be an informant for the U.S. Secret Service who comes across drug information that the DEA would be interested in.

Drug agents can also locate informants by reviewing closed drug investigative files and contacting persons involved in the case who are either now in prison or were somehow affected. Sometimes these people, especially those incarcerated, will either seek revenge or provide information to enhance their chances of parole. Even though they are in prison, they can make telephone introductions to dealers for undercover investigators so that they can discuss future drug transactions.

Sometimes targets of opportunity arise for the drug investigator. If a targeted drug dealer harms someone's spouse, parent, significant other, or business partner, the drug agent should visit the victim to solicit their help in the investigation. The injured party may use the drug agent as the means of seeking revenge and punishing the dealer for harming them.

Supervisor's Role in Informant Management

Police agencies should not leave the management of drug informants exclusively to nonsupervisory drug agents. Formulating a written policy, approved by the agency head, ensures consistency in the use and management of informants and serves as a guide for inexperienced investigators.

The informant policy should indicate which investigators may maintain informants as well as who will supervise them. In addition, the policy should clearly establish that informants are assets of the entire department and not the individual agent/handler. In this regard, management should both authorize and encourage investigators to share informants with others within the department. Also, checks and balances must be in place to ensure that the policy is followed. Violations of the policy can leave the department vulnerable to severe criticism from the public and prompt lawsuits by persons affected by the informant's information.

Policy concerning the management of CIs 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.

Protecting the Informant's Identity

Society has always been negative toward informants. "Tattletales" and others who provide information to authorities have always been looked down on. The number one concern of informants is the protection of their identities. Generally in drug investigations, a guarantee that the identity of the informant will never be revealed cannot be made. In fact, due to the nature of these investigations, there is much more likelihood that the informant's identity will be revealed than not, and that he will possibly be later called to testify in court. This is because of the intense personal involvement of the informant with the suspect during the course of the investigation.

Everything he sees, hears, or does is subject to cross-examination by a defense attorney.

Avoid Making the Informant a Percipient Witness

There are methods, however, that can help prevent the identity of the informant from being revealed. One such method is not exposing the informant to actions that make him a percipient witness to the event. Another is to conceal exactly when the informant provided information to the police.

As an example, an informant notifies the police that open drug sales are being conducted at a given location. Drug agents establish surveillance at the location, and from their experience and training conclude that in all likelihood, drugs are being sold at this location. The surveillance lasts for one week. In the middle of the week, the informant is sent into the location to make a controlled purchase of drugs to establish that controlled substances are, in fact, being sold at the location. Surveillance continues for several more days until an affidavit for a search warrant is presented to a judge who grants the police authority to search the premises, based partly on the actions of the informant. The affidavit may not have to be specific as to when the informant made the drug purchase. Since numerous drug sales most likely will continue up to the moment the search warrant is executed on the premises, it would be impossible for the traffickers to know, with certainty, who informed the police. To further protect the informant, an agreement should be made ahead of time with the prosecutor not to file charges against the defendants for the controlled purchase of drugs made by the informant. This will help guarantee his identity will not be revealed to the suspect or the public in general.

Report-Writing Techniques

Another way to minimize the informant's exposure is to not reveal his name in police investigative reports. These reports can be written in a way to conceal the gender of the informant by substituting a number for his or her name. Be mindful that even though the name of the informant may not be in the police report, the drug trafficker will most likely remember who was involved in the activities revealed in the police report. It may become obvious to the trafficker who the informant is, however, no one outside the investigation will know who was involved.

Using the Informant to Introduce Undercover Agents

Informants must be percipient witnesses to events in order to be called to testify in court. If an informant is used solely to introduce an undercover agent to the targeted drug trafficker and has no further involvement, the likelihood of the informant being identified by being called to testify in court is diminished greatly. If the informant is later confronted by the trafficker and accused of being an informant, he can provide a plausible story denying he knew the person he introduced to the trafficker was a drug agent.

Wall-Off Method

Another highly successful method of concealing the identity of the informant is using a technique known as a wall-off. Here an informant is ready to consummate a drug deal with the suspect. This drug deal is likely to be the third in a series of confidence buys where the suspect was allowed to leave with the buy money, giving him no reason to suspect the informant was involved with the police. During a final meeting, the informant may display money to the trafficker to prove he can purchase additional drugs.

The trafficker departs the meeting with the intent of returning with the drugs at a

given time to deliver them to the informant. After retrieving the drugs, but before arriving back at the original meeting spot, drug agents arrange for a marked police car to follow the trafficker until the uniformed police officers can develop independent probable cause to stop the vehicle, which is usually a minor traffic offense.

The officers may either see the drugs in plain view, or ask the driver/drug trafficker for permission to search the car. Many suspects grant permission for the search feeling they have hidden the drugs well enough that they cannot be found. The search is conducted and after the drugs are found, the suspect is arrested.

If the dealer later makes bail, the CI will be instructed to telephone the trafficker. To reinforce in the trafficker's mind the informant had no prior knowledge of his arrest, he will ask the trafficker why he never returned to the delivery point with the drugs. If the trafficker admits to being arrested, the informant can suggest they stay away from each other since law enforcement must be investigating him. The informant can also feign anger at dealing with someone that the police were interested in, and state how lucky he was to have escaped arrest. Also, the informant can ask the trafficker if he mentioned he was going to deliver the drugs to him, and if he gave the police any information about the CI.

This charade has been highly effective in keeping drug informant's identities confidential. To further conceal the identity of the informant, drug agents can arrange with the prosecutor not to prosecute any prior controlled purchases between the informant and the trafficker in order to minimize the likelihood of the informant being exposed.

By using these methods, drug agents will successfully build a wall that will hopefully prevent the drug trafficker from discovering who the CI is. This wall-off technique also works well in concealing the involvement of an entire law enforcement agency. One agency may ask another to stop and conduct a search of a drug trafficker's vehicle in order to disguise its involvement.

Camouflage Techniques

In order to camouflage the relationship between the informant and the police, several techniques can be used. At the time the suspect is arrested, the informant can also be handcuffed and "arrested," reinforcing the notion he is not an informant. The informant can be initially lodged in the same jail cell with the drug dealer immediately after the arrest and allowed to wear a transmitter to record their conversations about other suspects, drug hiding places, and the like.

Another method is when the trafficker delivers drugs to the informant and he "escapes" without the drugs followed by drug agents in hot pursuit. Later the pursuing agents return to the arrest scene and question the suspect about the identity of the person who fled thereby giving him the impression that they have no idea who the person is or that he is an informant.

Other Considerations

Drug agents should refrain from providing their informants with their department business cards. Providing them with business cards shows that a relationship exists between the drug agent and the informant. There is also a possibility that targeted drug dealers will inadvertently see the card and accuse him of being an informant. Any connection drug traffickers can establish between the informant and law enforcement will jeopardize the ongoing investigation, and possibly create safety problems for both the drug agents and the informant.

Another good reason not to provide an informant with a business card is to eliminate the possibility of the informant posing as a drug agent. Informants have been known to pose as police and seize drugs from unsuspecting drug dealers to later sell. Producing an authentic police business card may facilitate this or other crimes. This also prevents the informant from posing as a drug agent in social situations.

To further protect the identity of the informant, drug agents should provide an informant with the investigator's telephone contact numbers on a plain piece of paper in the informant's own handwriting. The numbers can be arranged in such a way to resemble a mathematical problem, where the numbers in the equation make up the office or pager number of the handler (Figure 4.1).

The Informant File

Investigators should formally establish files on CIs who regularly provide information or expect compensation for information they supply. Informant files chronicle their work performance, background data, and personal history. Investigators should not use any CI that has not been documented.

Although drug agents should document every contact with informants, not everyone in the department has a need to know an informant's identity or have access to informant files. Access should be on a strictly need-to-know basis, including only those drug agents and their supervisors who deal directly with the informant.

To further protect the CI's identity, investigators should use code numbers in lieu of his name in all investigative reports. Informants should keep the same number throughout their working relationship with the department.

The informant file should include information pertaining to the informant's vital statistics. Information such as his photograph and fingerprints, physical description, work and home addresses, vehicles driven, contact telephone numbers, including cellular, home, business, fax, pager, and email address. Also next of kin information needs to be documented to help find the informant if he should later be wanted for a crime.

Equally important are periodic checks through the FBI National Crime Information Center (NCIC) for any wants or warrants for the informant. Also needed are FBI and state police rap sheets reflecting past arrests and convictions. This information needs to be consistently updated and documented in the file. A wanted informant should never be used, and any drug agent who knowingly uses an informant who is a fugitive from justice should be severely censured. The likelihood of any case being prosecuted that was developed by a fugitive informant is remote at best.

Taking a CI's photograph and fingerprints, and other documentation sends a clear message to the informant that he should be straightforward and honest with his handlers. The informant will also realize that he is dealing with professionals who leave nothing to chance. He will know drug agents have sufficient personal information about him to enable them to find him quickly if he should ever commit a crime or maliciously expose information about undercover agents and police operations. Such documentation may deter perversely motivated informants.

In addition, informant files enhance the credibility of the department in the eyes of the court and the public who view informants as inherently unreliable. Every time the

informant provides information concerning an actual or potential criminal event, the agency should create a written report detailing this information in the file.

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

Informant Debriefings

Before drug agents initiate an investigation based on information received from an informant, the designated handler should debrief the informant in order to ascertain his motive or motives and to advise him about the department's rules and regulations concerning the management of informants. 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 in any investigation, and that the department cannot guarantee that they will not be called as witnesses in court.

At the end of the initial debriefing, the drug agent should document this information in an informant agreement. This agreement should be signed by the informant, witnessed by the handler and supervisor, and placed in the informant's newly created permanent informant file. Investigators should debrief their informants on a regular basis, usually every 30, 60, or 90 days, to show they are active, or if necessary, to terminate their association with the department due to lack of productivity.

Agent-Informant Contact Procedures

The department must establish drug agent-informant contact procedures, and train employees in their use. For instance, the handler should meet with the informant in private and always in the presence of another drug agent or sworn police officer. The department should either strongly discourage or prohibit drug agents from contacting informants alone, especially if the drug agent intends to pay the informant. Meeting or paying an informant alone leaves the drug agent and the department vulnerable to allegations of wrongdoing.

Although informant handlers often develop special working relationships with their informants, department policies should preclude drug agents from contacting their informants outside the scope of official business. Drug agents must keep their relationships with informants strictly professional. This is particularly important when the informant and the drug agent are not of the same sex. Policies should also expressly prohibit socializing with informants and their families, becoming romantically involved with them, having off-duty business relationships with them, and accepting informant's gifts or gratuities.

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 managers must establish procedures for investigating alleged policy violations by drug agents 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

Informant payments can be divided into two distinct categories: awards and rewards.

Monetary awards are often based on a percentage of the net value of a drug dealer's assets seized during an investigation as a result of informant's information. Advising the informant what percentage he can expect to receive at the beginning of the case provides an incentive for the informant to seek out hidden assets that might otherwise go undetected.

Rewards, on the other hand, do not represent a percentage of the value of the seized assets. Rewards are specific amounts of money usually determined by the type and quantity of drugs seized. Other determining factors include the overall quality of the case, his level of cooperation, the number of defendants indicted and convicted, the amount of time and effort expended, and level of danger the informant was exposed to during the course of the investigation. Unlike awards, rewards come directly from the agency's budget. Informants should be eligible for both awards and rewards.

While an informant may receive money as a reward, many cooperate with law enforcement agencies to receive a reduced sentence for a pending criminal matter. Regardless of the form of compensation the informant receives, police departments must have a policy addressing under what circumstances an informant qualifies for an award or reward, who can authorize such payments, and under what conditions payments will be granted.

A defendant-informant should only be reimbursed for actual expenses incurred during the investigation. His reward is judicial consideration for his cooperation. Once the informant works off his legal situation, drug agents should continue to use him with the promise of awards and rewards in future investigations.

Although many informants can receive substantial awards by locating the assets of drug dealers, agency policy and budget restraints may limit the dollar amount informants receive. For this reason, investigators should exercise caution when explaining the payment policy to informants. They should never mention a specific dollar amount the informant will receive. Otherwise, the informant will hold the department to that amount, regardless of future budgetary constraints. Departments should never pay informants based solely on the amount of drugs they recover. Informants have been known to tell dealers to add adulterants to their drugs that are about to be seized as a way of justifying a larger money reward.

In addition to providing awards and rewards, departments should reimburse informants for expenses incurred during an investigation. The department may wish to round up the reimbursement the informant is entitled to as an added incentive to continue working.

It is highly recommended that informants be paid only in the presence of witnesses, with the final payment being made only after all court proceedings have been completed to ensure the informant's presence at the trial. Every time an informant payment is made, a record documenting the date, exact amount, and who made and witnessed the payment must be included in the informant's file in anticipation of future court inquiries.

How to Make a Controlled Purchase Using an Informant

An investigative technique known as a controlled purchase, or a controlled buy, is frequently used in modern drug enforcement operations. By definition, a controlled purchase is when an informant or undercover drug agent buys drugs or other contraband from a suspect in order to use it as evidence in trial. The first sale of the contraband itself is a crime the suspect can be arrested for, but usually several

purchases are made within several days or weeks, in progressively larger amounts, in order to defeat the entrapment defense. Entrapment is a legal defense where the defendant claims that either the informant or police convinced him to commit a crime he would not otherwise be predisposed to commit, solely for the purpose of arresting him. In other words, the defendant claims the police planted the idea of him committing the crime. By making several controlled buys, additional physical evidence is obtained, and the prosecution can dispel any notion that they entrapped the defendant.

CIs are frequently used to make controlled purchases of drugs, stolen property, weapons, and other contraband when using an undercover police officer would be impractical. Generally, informants provide law enforcement with the initial information pertaining to the illegal activities of the suspect. In a typical drug case scenario, investigators will first conduct a thorough debriefing of the informant that will most likely reveal that the informant has bought drugs or other contraband from the suspect in the past. The drug agents will determine if the suspect will continue to deal with the informant. If he will, an undercover meeting is planned.

Drug agents may learn the suspect refuses to take on new customers for fear they may be undercover police officers. Using a drug agent should be the first choice in investigating this type of case, but in light of his refusal to meet new customers, investigators may have to rely on the CI to make these controlled purchases instead.

The objective of the controlled buy investigative technique is to be able to prove in court that the suspect sold drugs to the informant. This is accomplished by taking precautions to lessen, if not eliminate, any other possibility. Below is the step-by-step procedure that should be followed to enhance the

informant's safety during the operation, and to convince a reasonable man that the informant could only have obtained the drugs from the defendant.

Thoroughly Debrief the Informant

Drug agents must conduct a thorough debriefing of the informant in order to ascertain all known facts about the suspect. Questions the informant must answer include:

1. What is the physical description of the suspect? Where does he live and work? What are his contact telephone numbers? What type of vehicle does he drive?
2. Does the suspect have a propensity towards violence? Does he have access to a weapon?
3. How does the informant know the suspect? How long have they known each other?
4. Who is the source of supply (SOS) for the suspect's drugs? Does he have more than one SOS? What other items of contraband does he deal in? Is he a poly-drug dealer or does he specialize in one particular drug? When was the last time the informant saw the suspect deal drugs?
5. What is the price for the drugs he is selling? Are the prices reasonable, or exceptionally high or low for the area? (A low price could be indicative of either a planned robbery, or the sale of counterfeit drugs.)
6. Will the suspect meet new customers? Is he part of a larger organization needing assistance, e.g., couriers, enforcers, transporters, money launderers? Can an

undercover agent be introduced to fill one of the organization's needs?

7. Where does he deal his drugs? What quantities does he deal in? Where does he like to make the exchange of drugs for money?

8. Does he deal alone or with others? Does he use counter-surveillance during his drug deals? If so, what do these people look like? What are their names, addresses, work places, vehicles they drive, etc?

Check Law Enforcement Indices

Once this preliminary information is obtained, a thorough check of various law enforcement and public records should be made. The FBI's NCIC can quickly determine if the suspect is wanted, has ever been arrested, what he was arrested for, and if he has ever been in prison.

If the suspect has been arrested, a review of the arrest report may reveal known associates, if he was armed, methods of operation, vehicles driven at the time of the arrest, etc. all of which are helpful in the beginning stages of a drug investigation. If a check reveals the suspect has a warrant for his arrest, it may make more sense to abandon the drug deal in favor of arresting him for the warrant instead. There is also a chance the suspect could be arrested by another police agency for the warrant prior to the completion of the drug investigation.

Checking with the state's Department of Motor Vehicles will identify all vehicles registered to the suspect, what mailing addresses he uses, as well as his driving record and photograph from his driver's license.

Requesting information from the local utility and telephone companies will reveal what locations he pays for gas and electric service as well as long distance telephone numbers he calls. Cellular telephone companies can provide credit information used to secure the service, as well as billing addresses, and a listing of all telephone numbers dialed from that instrument. From an analysis of telephone numbers he calls, the drug agents may be able to show connections between the suspect and other known or suspected drug dealers.

Monitor Phone Calls and Personal Visits between the Informant and the Suspect

To further corroborate the informant's information, monitor and record all telephone conversations between the informant and the suspect. It should be noted that in most states, conversations recorded with the consent of at least one involved party do not require a warrant. However, because consensual eavesdropping rules vary from state to state, agents not employed by the federal government should consult with their state attorney's office before using this technique.

The objective of these initial phone calls is to schedule a face-to-face meeting between the informant and the drug dealer. Monitoring these conversations accomplish several important things: it corroborates that the informant personally knows the suspect, it shows the informant that the drug agents are thorough in their methods, and it makes it clear that they intend to verify unsubstantiated information.

Before a telephone call is made to set up a face-to-face meeting, the drug agents should have an investigative plan that includes the clear objectives of the investigation, including where the meeting will take place. The selection of the location of the meeting should be made in advance to insure the location is conducive to easy surveillance.

The objectives of the investigation may change depending on the development of the case. The suspect may reveal to the informant a location where drugs are being stashed, or may ask him to assist in a future drug transaction. By monitoring all contacts between the informant and the suspect, the drug agents know all the unfiltered information the informant has about the suspect. It also prevents the informant from secretly taking part in an unauthorized side deal with the suspect.

Provide the Informant with Official Funds That Have the Serial Numbers Recorded
Just before leaving the office to follow the informant to the meeting location, drug agents should provide him with the monies necessary to purchase the drugs in question. In order to document how much money investigators gave to the informant, a signed receipt for the money must be obtained and included in the case file. Any monies not spent to purchase evidence must immediately be returned. Serialization of the money is important for three reasons: (1) It clearly demonstrates that the money originated from law enforcement, (2) it discourages the informant from stealing it, and (3) in the event the serialized money is seized from the suspect at a later date, it further corroborates he received the money from the informant. These funds may later be recovered at the time of the suspect's arrest or during the execution of a search warrant at the suspect's home, business, or vehicle.

The physical appearance of the money to be given to the suspect is important. Freshly printed notes banded in a wrapper provided by the Federal Reserve Bank, may alert the suspect that he is dealing with government authorities. However, used bills, in a variety of denominations, secured by rubber bands, will help convince the suspect that he is dealing with another drug dealer, because these are the types of bills drug dealers usually encounter (see Chapter 8).

Wire the Informant for Sound

Make sure the device used to transmit and record the informant's conversations with the suspect is operational before leaving the office. The informant must be cautioned not to turn off the transmitter under any circumstances since this will leave the investigation open to criticism and the issue will likely be raised in future court proceedings. Informants must be made to understand that if the transmitter is switched off the suspect may allege in court that while it was off, the informant threatened him harm if he did not go through with the drug deal. To avoid this situation, drug agents should attempt to only use transmitters that cannot be turned off, intentionally or accidentally.

Another rule of thumb about recording and transmitting devices is that if drug agents decide to record the first meeting, they should be prepared to record all subsequent meetings and telephone calls between the informant and the suspect during the entire investigation. By selectively recording only certain conversations, questions will be raised about the integrity of the case, and this may dampen the enthusiasm of the prosecutor to file charges against the suspect.

Designate Verbal and Visual Distress and Arrest Signals

Drug agents must discuss with the informant what signals to give in the event he is in trouble or he is being robbed of the agency's money. Both verbal and visual signals are needed since the transmitter cannot be relied upon. The informant must be trained that in the event of a transmitter failure, he should provide previously agreed upon visual signals designating distress or when drug agents should make their arrest. Telephonic pagers greatly assist the drug agent in discretely communicating with the informant. Sending the informant a certain code number may mean to wrap up his

conversation and leave the area. Another code may indicate surveillance is following him. Cellular telephones are also extremely useful in giving direction to the informant, provided the suspect cannot overhear the conversation, and the informant does not say something that would identify the caller.

Search the Informant and His Vehicle

Before leaving the office to go to the meeting location, it is vital that drug agents thoroughly search both the informant and his vehicle. This allows the drug agent to testify he did not find any drugs, weapons, or other contraband in the informant's immediate possession that could be used to either frame the suspect, or coerce him into selling drugs. If the informant refuses to allow himself or his vehicle to be searched, halt the operation immediately, and do not proceed until it can be established why the informant refuses to follow direction.

Surveillance Team to Follow the Informant

The surveillance team follows the informant to the predetermined meeting place so drug agents can later testify that the informant did not leave their sight and have an opportunity to pick up drugs or weapons at another location. Upon arrival at the meet location, drug agents should set up surveillance of the location to not only determine if the suspect has arrived, but when he arrives, and to also protect the informant from the suspect.

If the meeting place is at a public location such as a restaurant, placing a drug agent inside to pose as a customer will further corroborate the informant's statements and will reveal if anyone joined the suspect during the conversation. The inside surveillance agent may be able to detect persons acting as counter-surveillance for the suspect. (For more details on this, see Chapter 6.)

Informant Is to Go to a Designated Cold Spot after the Meeting

Immediately upon completion of the meeting, the informant should go to a designated cold spot that is far enough away from the location to not be seen by the suspect.

There drug agents should retrieve the drug evidence that the informant just purchased, and they should also search the informant and his vehicle again to look for any other contraband the suspect may have given him. Informants have been known to receive more drugs than expected, and keep the excess amount for their own personal use or resale later.

Instruct the Informant to Immediately Return to the Office

The informant should return to the drug agent's office where he can be thoroughly debriefed on what transpired and to make a written statement detailing the events. Every time an informant makes a controlled buy, regardless of how many times he has done it before, these same procedures must be followed. If an undercover drug agent is making the controlled buy instead of an informant, there is a presumption of integrity that precludes the necessity to search him or her. However, because of officer safety concerns, he or she should always be under constant surveillance by a team designated to provide him with protection. (For more information on this, see Chapter 7.)

The Seven Steps to Successful Informant Management

Identify potential informants. Recognize persons who may be potential informants. Drug agents will develop this skill with experience.

Recruit informants. Establish a rapport with the person and explain the department's

policy on awards and rewards in order to recruit a diversified stable of informants.

Document all contacts with informants. Document and maintain informant files to give a true picture of his work performance. Update files whenever changes occur.

Develop relationships. Know the limitations of individual informants, but do not accept anything less than their maximum effort.

Maintain relationships. Keep informants active by exposing them to situations that enhance, not limit or restrict, their ability to perform at their maximum potential.

Use informants to their fullest. Continue to use informants to keep them from losing interest. Encourage other drug agents to task these informants whenever possible.

Control informants. Manage informants successfully by controlling them. Drug agents cannot allow informants to run investigations, regardless of how insistent or assertive they become. Drug agents and their supervisors ultimately make the decisions during cases, and informants must be made to realize this.

Keys to Success in Informant Management

Control

Drug agents must learn to control their informants in order to keep a handle on their investigation. Informants need to know that the drug agent is in charge of the investigation, and their supervisor is the ultimate decision-maker and they are not. Keeping control of the informant will prevent him from making unauthorized contacts with the targeted drug dealer and keep him in focus. Drug agents who lose control of their informant will soon lose control of their investigation.

Honesty

If the controlling drug agent is not honest with the informant, why should the informant be honest with the agent? For the sake of safety and maintaining control of the informant, the investigator must be honest with him. If the investigator exaggerates about the amount of money his agency will pay the informant for his services, the informant is probably not going to work for the agency again. He may become disgruntled to the point of not cooperating during trial preparation or courtroom testimony. Honesty is certainly the best policy when working with drug informants.

Fairness and Respect

Informants, like anyone else, appreciate being treated fairly. Drug agents should consistently treat their informants fairly throughout their relationship, and they should be treated the same as any other employee.

Show respect for the informant and refrain from calling him names such as snitch, fink, rat, and the like. Chances are he would not be an informant if it were not out of necessity. Show your appreciation for his long hours and hard work on the job.

Clarity in Direction

Many mistakes can be avoided when the drug agent takes the time to clearly explain directions to the informant. By being clear and specific with the informant, he cannot claim, rightly or wrongly, that he did not know he could not do a particular thing. Making mistakes due to misdirection or carelessness can cause tremendous safety problems for the informant and drug agents as well.

Provide Training for the Informant

Informants must be trained in some legal aspects of drug enforcement to avoid violating a suspect's rights and to prevent the informant from committing unintentional criminal acts. Unless trained, informants may believe they have law enforcement authority, when they do not; that they can carry concealed weapons, when they cannot; and that they can entrap people who normally would not be predisposed to commit a drug crime for the purpose of arresting them. All these areas as well as departmental policies concerning informant interaction must be gone over with the informant.

Informants must also be taught to know they cannot violate the law in an effort to enforce it. The informant must know that violations of the law will not be tolerated, and that he will be arrested for doing so. For instance, breaking into a drug dealer's home to find evidence of a crime will result in the informant's arrest and prosecution for burglary. The informant must be clear on what he is expected to do, and more importantly, what he shall not do.

Summary

Since the public does not usually report drug crimes, it is imperative that drug agents collect a steady flow of actionable criminal intelligence in order for them to be effective. This requires the constant recruitment, use, and proper management of drug informants and their information. The purpose of informants is to gather information from sources not readily available to law enforcement officers; to make observations in places where strangers would immediately be suspect; to conduct undercover negotiations; and to gain firsthand, timely intelligence.

Most informants either still are, or once were a part of the drug underground, which gives them access to highly valuable criminal information. At the same time, this association with drug dealers makes them inherently unreliable due to their criminal pasts and desire for anonymity.

All informants provide information to the police in order to get something in return. Their motives range from being paid to playing the role of a fictional crime-fighter. Regardless of what motivates an informant to provide information, the drug agent must identify the true reasons early on. An informant who states he is being motivated by money when in reality is motivated by revenge, will ignore direction from his handler and orchestrate events that will fulfill his motivation. Perversely motivated informants are dangerous and destructive.

Informants need to be kept under tight control. They need to know who is in charge and that they are not. The case agent and his or her supervisor must make every decision on what direction the drug investigation will take, never the informant. The informant's input should be solicited and carefully considered, but the drug agent and his or her supervisor ultimately decides how the investigation will be conducted.