

WHAT IS AN INFORMANT?

Informants may be used to gather information about a particular organization, mosque, building, workplace, or individual. They may be private citizens who cooperate with a government agency or those who are on payroll of a government agency.

- There are two types of informants: (1) private citizens who cooperate with a government agency, and (2) police informants who work as undercover agents for the government.
- There are two types of undercover law enforcement agents. Often government agents act in both of these roles.
 - *Informants* provide information to a government agency without the consent of the people or organizations about whom they are reporting.
 - *Agent Provocateurs* attempt to instigate others to participate in a crime and subsequently inform the government of the illegal activity.

How do you identify an informant?

Be aware that anyone can be an informant. Common characteristics of an informant include those that:

- Espouse “extremist” views and openly advocate violence against the U.S.
- Seem suspiciously generous and use their wealth to secure friendship.
- Taunt others to join them in their activities, and are aggressive and divisive.
- Target youth and younger members of the community or those with criminal records.

What should you do if you think someone is an informant?

- Take steps to avoid that individual.
- Make it clear that the mosque, community organization, or center does not tolerate aggressive or violent speech.
- Report the individual to the leadership.
- Consult an attorney or CLEAR with the community’s leadership about further options for using the courts or law enforcement to deal with the situation.
- NOTE: Be very careful about involving the police because (1) if the individual is an informant, the police may not do anything, or (2) if the individual is not an informant and you report them, there could be unintended consequences.

What are informants allowed to do?

- They are allowed to lie.
- They are not required to identify themselves even when asked about their identity.
- They are allowed to attend any religious meeting or event that the public can attend.
- A search warrant is not required when an informant enters a religious institution that is normally open to the public.
- They may carry concealed recording equipment, which means that they can record conversations and use them later in an investigation or criminal case.

What is entrapment?

- Entrapment is when a government agent induces an individual to commit a crime or break the law. This is not allowed.
- It is legal for a government agent to *convince* or *trick* someone into breaking the law as long as it does not rise to the level of *inducement*.
- It is only entrapment if an individual was unlikely to commit the act without the government agent’s assistance.

- There are few circumstances in which entrapment is considered a defense by judges and juries.

HOW CAN YOU PROTECT YOURSELF?

After 9/11, many Muslims are afraid to protest or speak out against government and law enforcement policies because they are afraid of being labeled “terrorists.” While it is important to be careful about what you say, as you never know who could be listening, i.e. an informant, you still have a right to express your political and religious views.

What are your First Amendment rights?

The First Amendment to the U.S. Constitution protects a person’s right to express her or his beliefs, even those beliefs that are unpopular to the government or mainstream society.

The First Amendment does not protect:

- Speech that is likely to incite violence
- Speech that creates a clear and present danger

The government uses “national security” as a reason to weaken the protections of the First Amendment. Even though your words may be protected, they can still be used against you. When speaking, be aware of the difference between talking and advocating violence.

- Always put in a disclaimer and clarify your intention, e.g. “I do not support the killing of innocent civilians...”
- Be clear and concrete, e.g. do not say “I support jihad in Afghanistan,” because the statement is too vague and it is better to explain that, for example, you are sympathetic to the innocent people who are struggling in Afghanistan.

What can be used against you in court?

- Even if you have no intention of committing a crime or offense, be mindful that non-specific agreements can be construed as “material support” and result in criminal liability. Make sure that you can trust the person you are entering into an agreement with.
- An informant may encourage you to join or support an organization that the government has designated as a Foreign Terrorist Organization (FTO). Any affiliation with an FTO may expose you to criminal prosecution or affect your immigration status. Before agreeing to join or support any organization, do your research. Check the State Department’s website for a list of FTOs.
- If your house is searched, the government may use any material found (e.g. books, magazines, computer files) against you in court.

HOW DOES THE GOVERNMENT RECRUIT PEOPLE TO BECOME INFORMANTS?

To be effective, police recruit individuals who are from a community or are familiar with a particular community because they have access to information that the police otherwise would not.

- It is common for the government to offer informants various incentives to provide information. Informants are often enlisted as part of a brokered deal with the government to eliminate or reduce criminal penalties, drop criminal charges, approve a political asylum application, or to prevent deportation.

What if you are approached about becoming an informant?

Government agents may intimidate, pressure, or offer incentives to you or someone in your family to get you to cooperate with them.

- The best course of action is to first speak with a lawyer. Even if you do decide to cooperate with law enforcement, seeking legal advice will give you a better sense of your rights and what your options are.
- If you do cooperate with law enforcement, know that you have the right to change your mind at any time.
- Remember that the government has no obligation to follow through on any promises that they make to you in return for your cooperation.

LEGAL RESOURCES

If you need legal assistance or advice, you can contact a lawyer or one of the following organizations that provide free legal services:

CUNY CLEAR
cunyclear@mail.law.cuny.edu
(718) 340-4558

Council on American-Islamic Relations
(CAIR)
(212) 870-2002

Muslim Bar Assn of New York (MuBANY)
www.muslimbarny.org

Assn of Muslim American Lawyers
(AMAL)
www.theamal.org

Know Your Rights: Informants

Since 9/11, the government has increased its surveillance, infiltration, and criminal prosecution of individuals in Muslim, Arab, and South Asian communities as part of its so-called counterterrorism program. This pamphlet provides information so that you are better prepared when you encounter an informant or law enforcement officials.

Creating
Law
Enforcement
Accountability &
Responsibility

(718) 340-4558
cunyclear@mail.law.cuny.edu
www.law.cuny.edu/cunyclear