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If the FBI Approaches You to Become an Informant

An FAQ: What You Need to Know

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May 17, 2017

Retrieved on 29th October 2020 from crimethinc.com

lib.edist.ro

May 17, 2017

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-Edna St. Vincent Millay, "Conscientious Objector"

Federal agents approach you. Perhaps they just ask a couple offhand questions; perhaps they have a deal to propose. They might tell you they are trying to help you; they might tell you that you are in a lot of trouble and it will just get worse unless you cooperate with them; they might tell you that they need your help to prevent something terrible from happening. But whatever they say, you can't be sure what their real agenda is or what they're trying to learn. Whether you've already been approached for interrogation or you simply want to be prepared for the possibility, this FAQ answers all the questions you might have. Don't take our word for it—follow up with other legal scholars for more perspective.

The FBI went to great lengths to target Martin Luther King, Jr., the Black Panthers, and countless other activists and social movements through COINTELPRO and other programs like it. Just like the KGB or the East German Stasi, their operations depend on a population that is willing to inform on each other out of cowardice and self-interest. The "War on Drugs" and the "War on Terror" have both relied on informants to fill US prisons with millions of inmates. Under Donald Trump, we see police and FBI agents ramping up their activities to intimidate and entrap more people than ever, with the explicit purpose of suppressing dissent. We have to stand up to these bullies.

Am I obligated to cooperate with police?

No, you don't have to answer any questions or supply names to the authorities. Neither you nor anyone else has a

legal obligation to assist the police in solving a crime. You are not legally required to cooperate.

If I do inform, will they protect my identity?

Though the state often refers to informants as “confidential informants” or “confidential human sources,” prosecutors may be obligated to disclose your identity in court, especially if you were central in the issuance of a warrant or if you were present at the scene of whatever the defendant is accused of. The defense could also force you to testify in open court: they are guaranteed the right to do so under the confrontation clause in the Constitution. Generally speaking, the FBI and prosecutors only concern themselves with protecting the identity of informants as long as they have additional plans to utilize them.

If I don't inform, can they make me testify in court?

If you lead a prosecutor or a law enforcement officer to believe that you have relevant information, you could be subpoenaed to testify. Your best chance at avoiding this is to refuse to talk to them from the beginning. That way, if they come after you later, other people will have good reason to trust you and support you in continuing to resist the pressures of the state. Your strongest and most secure right is the right to remain silent from the very beginning.

FBI activity to the attention of the general public can discourage federal agents from harassing people. It also enables people to organize together and support each other.

What should I do if I am approached to become an informant?

Remember these four things:

- Non-cooperation is the best way to protect our communities and movements against state repression.
- If they are approaching you about informing, they probably have a weak case if they have a case at all.
- You do not have to cooperate. You have the right to remain silent.
- Contact an attorney as soon as possible.

I shall die, but that is all that I shall do for Death;
I am not on his payroll.

I will not tell him the whereabouts of my friends
nor of my enemies either.

Though he promise me much,

I will not map him the route to any man's door.

Am I a spy in the land of the living,
that I should deliver men to Death?

Brother, the password and the plans of our city
are safe with me; never through me

Shall you be overcome.

for their counterterrorism program. Since September 11, 2001, nearly every major terrorism-related prosecution has involved a sting operation with a government informant at the center; there have been at least 416 defendants in terrorism prosecutions involving an informant.

While it is impossible to determine what the chances are that any particular individual will be approached to become an informant, it's reasonable to assume that federal agents will approach members of our communities whenever they see an opportunity to collect information or disrupt our organizing.

What if they have already talked to me and I agreed to help them because I was scared?

You are not obligated to cooperate. You can invoke your right to remain silent at any time. If you have already spoken with law enforcement, seek an attorney immediately.

You also need to be honest with everyone in your life about the conversation you had with them. If you fall into one of the traps that the FBI is so good at setting, you should be completely honest and transparent about it and recount the encounter in full. This is the only way to deserve the trust of your companions, be accountable for your actions, and make it possible to obtain support from others if you need it.

Even if you do not divulge any information whatsoever, you should report any interactions with federal agents to your community at large. You don't need to keep it a secret that you are being targeted—the ones targeting you already know. Bringing

If they are threatening to arrest me in order to get me to inform, don't they have to give me access to a lawyer?

While this might depend on the jurisdiction, the answer is generally no. You have a right to an attorney if you are being arrested, but law enforcement guidelines give officers wide discretion to make offers to get someone to inform. They may never formally arrest you, just detain you and question you.

Is the FBI obligated to give me what they offer when they are trying to get me to inform?

This is a grey area. Federal agents may offer formal informants a written agreement that is supposedly enforceable like a contract—but the FBI is obviously the more powerful party in this negotiation, with little to lose from failing to follow through. Law enforcement officers often maintain a network of unregistered informants whose testimony is not used in court but rather provide tips and useful information to aid in investigations. Many informants think they will get off for snitching, only to learn later that they still face time for lesser or reduced charges.

In short: the FBI cares about repressing communities and disrupting social movements, not about protecting informants.

Can't I just feed them false information to keep them off my back?

18 U.S.C. §1000 makes it a federal crime to knowingly mislead or lie to federal officials, including law enforcement. Federal agents have used this law to prosecute those they suspect of “domestic terrorism” when they have no other evidence to go on.

Remember, if law enforcement is looking for informants, there is a good chance they don't have a case against whoever they're trying to target. Don't give them a case against you.

Couldn't I just give them worthless or meaningless information?

It's always better to remain silent and not cooperate when approached by the FBI, then speak to a lawyer as soon as possible. Information you might assume to be irrelevant could be of interest in an entirely different case; it could implicate people you did not intend, or give the Feds a reason to really harass you. If you give them information about anyone, however harmless you think that information is, you increase the likelihood that they will attempt to intimidate and interrogate that person and likely others—and that they will come back to keep trying to learn more from you.

Don't make the mistake of thinking you can control the situation by talking. You can't know what the actual goal of their

inquiry is, or what their strategy is in approaching you. The only control you have is in refusing to speak to them.

Don't FBI agents need to have something on me before they can approach me?

FBI agents can run with what is called an “assessment.” It doesn't require a warrant or approval from superiors, and it can be just as invasive as a full-fledged investigation. According to their guidelines, this assessment can be used to “seek information to identify potential human sources [i.e., informants], assess the suitability, credibility, or value of individuals as human sources, validate human sources, or maintain the cover or credibility of human sources, who may be able to provide or obtain information relating to criminal activities in violation of federal law, threats to the national security, or matters of foreign intelligence interest.”

In other words, they are free to approach you and say whatever they like without any information whatsoever.

What are the chances they are going to approach me? How many informants are there, and how important are they to the activities of the FBI?

Law enforcement is dependent on informants. The FBI alone maintains a network of some 15,000 informants just