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TRAGEDIES OF JUVENILE INFORMANTS - PROTECT CHILDREN FROM POLICE.pdf

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1 An undergraduate student at The Ohio State University, majoring in Psychology and Sociology. I thank Mr. Robert Eckhart for the lessons he have taught about research and writing skills. I thank my girlfriend who understands me, supports me, and love me.
INTRODUCTION

The juvenile is a very special group in society, so juvenile justice system was created. This special group needs more protection and education than adults. When they become delinquent, they should be rehabilitated rather than punished. As drug violation becomes more common, many juveniles are arrested for possession of drugs. Then they are offered a job of providing criminal information for police, and in exchange, charges against them will be reduced or dropped. Absence of mature judgment, some minors may agree. However, they do not realize they put themselves in a very dangerous situation.

The first part of this note gives a brief definition, history and development of informants. The second part presents several cases of minor informant tragedies. The third part illustrates the benefits and issues of using minor informants. The fourth section will discuss the juvenile justice system and juvenile delinquency. The fifth section presents related laws. The last part of this note will give recommendations.

I. DEFINITION, HISTORY AND DEVELOPMENT OF INFORMANTS

A. Definition

An “informant” can be defined as a person who collects and delivers criminal information to law enforcement officials. An informant also often participates in sting operations, which is very dangerous for untrained informants.

B. Early Ages

The use of informants can trace back to ancient Greece, developed in the Middle Ages, and still active in America today. The modern employment of informants originated in “approver system” in Britain. Individuals charged of treason or other serious crimes could give up the names of their accomplice, in exchange for forgiveness and exile. As the law enforcement began to professionalize in Western Europe, informant system arose.

C. Today

Informants play a very important role in today’s law enforcement. It has been said that “without a network of informers … narcotics police cannot operate.” Studies show that the use of informants in the United States has been increasing recently. In the U.S. District Court in

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3 Police uses minor informants to apprehend criminals who sell tobacco, alcohol, and drugs to minors.
4 See Robert M. Bloom, Ratting: The Use And Abuse of Informants in American Justice System 1, 3, 5, 7 (2002).
5 Id. at 5.
Atlanta, Georgia, the case that the police use informants increased from 60% in 1980 to 90% in 1989.\(^8\) Between 1980 and 1993, the number of federal search warrants that relied on information provided by informants increased from 24% to 71%.\(^9\)

The increase of using informants is associated with court cases. In 1960s, informants use was restricted by the Supreme Court in order to limit the discretion of police. In order to use an informant, the police bear the burden that the informant must be both credible and knowledgeable (Aquilar v. Texas, 1964). In Illinois v. Gates (1983), the decision only requires the court to look at the totality of the circumstances. Therefore, law enforcement now has broader discretion in terms of using informants.

There are two types of undercover informants.\(^10\) The first category is citizens with a sense of justice and righteousness. This kind of citizens usually seeks the personal sense of self-worth, so the police view them as reliable. The second category is individuals who have some connection with crimes and want to trade with the police.\(^11\) Most people in this category seek some benefits from the police. Those benefits include money, charges reduction or dismiss, eliminating competitors, and gaining experience to deal with the police in the future. There are career informants who provide information and set up sting operation for payment. Most informants provide information for charges drop or reduction. For police officers who are more eager to solve the case, view this exchange as a great deal. Usually the police overlook the crimes those informants commit during the contract with police. Some criminal may provide the information of their competitors to send them to jail. There are also criminals who want to gain experience and skills the police have, in order to deal with them more effectively in the future.

II. TRAGEDIES OF JUVENILE INFORMANTS

Many horrifying tragedies have happened to juvenile informants because they are not mature enough to make rational decision, tend to take risks, and lack necessary sting operation training.

*Chad MacDonald*

Seventeen-year-old Chad MacDonald was stopped by Brea police officer Keith Watson for speeding in 1998.\(^12\) A police transcript indicates that Keith Watson questioned Chad if he had been arrested before. After MacDonald denied, Watson replied “you are selling drugs.” Then the officer searched his car and found 11 grams of methamphetamine. Facing the drug charge, Chad’s mother signed a contract that allows Brea Police Department to use Chad MacDonald as an undercover informant. Tragedy happened after Chad MacDonald worked two months for Brea Police Department. Just one week before Chad MacDonald’s eighteenth birthday, he was found shot to death by three suspected drug dealers in Brea, California. Before this, Chad’s sixteenth girlfriend was raped, shot in the face and left to death, but she survived finally.\(^13\)

\(^8\) *Id.*
\(^11\) *Id.*
\(^12\) Deborah Hastings, *Teen’s Tragic Death Uncovers the Dark Side of His Life* A3 (1998).
After Chad was arrested for possession of illegal drugs, the police told him that he had two options. One was that he would go to a juvenile facility for a short time; another one is that he could work for Brea Police, and in return, his charge would be dismissed. However, as a first time offender, Chad MacDonald had a third option, which was attending a treatment program.14

_Cecil Calloway_

In 1982, Cecil Calloway was sixteen when he was beaten and murdered after he provided information to city vice squad officers in Roanoke, Virginia.15 Unlike Chad MacDonald, Cecil Calloway volunteered to help the law enforcement. For exchange, he received a small amount of money. Vice officer Pete Sullivan stated that Cecil Calloway was aware of the risk: “(t)hey know it in the back of their minds. And we take every precaution we can with our informants. We don’t throw them to the wolves with their eyes closed.”16

_Gregory Erickson_

In 1997, Gregory Erickson’s body was found in Estherville, Iowa, shot in the head, and burned. Local police, however, denied that Gregory Erickson had ever worked for the police. Gregory Erickson’s father showed a contract that he signed and allowed the police to use his son as an informant. The reason Gregory Erickson agreed to take the risk was to dismiss the charges of possession of drugs.17

_Robbie Williamson_

Seventeen-year-old Robbie Williamson committed a suicide two days after he helped the local police make a drug bust in Virginia Beach.18 He received several calls that threatened him from a known drug dealer. Robbie Williamson’s mother stated that she had never been contacted by the local police about giving consent or signing a contract. She also indicated that Robbie Williamson had mental instability, and that could be easily detected if the police department ever did a closer background check. Robbie Williamson was on probation of theft and burglary and visited mental treatment institutions frequently. However, the police stated that Robbie Williamson volunteered to help the police, and the police believed he was mature enough to do this job. It is ironic to say a mentally unstable minor can handle such a risky job, which should be handled by professional and well-trained police officers.

In most juvenile informant cases, juveniles agree to take the risky job is because that they want to have their charges reduced or dismissed. However, all of them are not well trained before put into the dangerous situation. Also, their immaturity and lack ability of making rational decisions increase the riskiness for them. Therefore, before using a minor as an undercover informant, police should operate a deep evaluation on whether the minor is mature enough to handle the job, and should gain the consent from his or her parents or guardians.

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14 Scott Martelle and Bonnie Hayes, Chad MacDonald’s Short, Tragic Life A1, (1998).
15 T Jackson, Murder of Teenager Informant Dies B1, (1994)
17 J Hazlett, Erickson’s Drug Past Described 1,2, (11998).
III. BENEFITS AND ISSUES OF USE OF INFORMANTS

A. Benefits

There are obvious and immense benefits of using informants, if we put the costs it creates aside for one moment. Informants are considered necessary and proactive law enforcement in case of tobacco and alcohol trafficking, especially in drug cases. Due to the secrecy of this crime, it is normally very difficult for law enforcement to gain reliable information about the crime. By using criminals who already are connected with the targeted group, it will be much convenient for law enforcement to gain crucial information and arrest targeted criminals. Compared to sources gained by other means, information provided by informants is more “accurate, efficient, and comprehensive”.\(^\text{19}\) The only cost for the law enforcement is a small amount of money and dismiss of charges against some street-level criminals. With the eager to solve the case quickly, and a tight budget,\(^\text{20}\) the benefits outweigh the costs very much.

When it comes to juvenile informants and juvenile delinquent, all benefits above still apply. Moreover, adult agents cannot easily infiltrate into the juvenile delinquent because they are usually easily exposed. As a result, use of juvenile informants is the best way for the law enforcement to solve this problem effectively.

B. Issues

Now put the costs of using informants back into the frame. Costs and serious issues arise with the increasing use of informants, especially then the juvenile is involved. On the evening of May 7\(^\text{th}\), 2008, Rachel Hoffman, a 23 years old graduate in Florida State University was found dead from a gunshot wound.\(^\text{21}\) Rachel Hoffman’s first encounter with police happened when she was a junior. She was stopped for speeding and the police found about an ounce of marijuana in the car.\(^\text{22}\) After she was arrested again, because the police found ecstasy pills and marijuana in her apartment in Tallahassee, Florida, she chose to cooperate as an informant for the police. In a sting operation, Rachel Hoffman attempted to purchase cocaine and a firearm from two criminals. However, things went wrong, and Rachel Hoffman was killed. In response to the tragedy, Florida passes “Rachel’s Law” in 2009, and became the first state that provided new policies and procedures for the use of informants.\(^\text{23}\) However, the “Rachel’s Law” was stripped of key provisions including law enforcement should provide lawyers for potential informants before they agree to any deals.\(^\text{24}\)

The Rachel Hoffman case is representative for most informant cases. As the case mentioned above, Chad MacDonald case, informants are usually put into the dangerous situations without


\(^{21}\) Id.

\(^{22}\) Id.


\(^{24}\) Id.
proper training. Especially for juvenile informants, who are not mature physically and psychologically, face more serious danger. Fifteen-year-old Gregory Erickson, sixteen-year-old Cecil Calloway, seventeen-year-old Chad MacDonald and Robbie Williamson, were all untrained before put into danger.\textsuperscript{25} As a result, tragedies happened.

The responsibility of law enforcement is not only to fight drug war, but more importantly is to protect the people’s life. It is cruel and immoral to fight drug criminals by sacrificing the lives of juvenile. The opponents may say those “juveniles” have already committed crimes, so there is no need to feel sorry for them. These two conflicting opinions reflect the philosophies of juvenile system.

IV. JUVENILE JUSTICE SYSTEM AND JUVENILE INFORMANTS

The juvenile system was invented in 1899 in Cook County, Illinois.\textsuperscript{26} This notable invention placed new procedure and philosophy into the newly established court system, which was unique to juvenile offenders. The primary philosophy was to “promote eh welfare of the offender”, which is rehabilitation but not punishment. The juvenile court aims to rehabilitate the delinquent, but not make them feel stigmatized. However, the philosophy changed to punishment, in past several decades. Martin R. Gardner stated several reasons for this change:

\begin{quote}
[A] loss of faith in the juvenile justice system’s ability to rehabilitate; the Supreme Court “criminalization” of juvenile court proceedings; a general rebirth of retributive theories of punishment through the legal system; an expanded view of children’s capacity for responsibility; and a perceived increase in the rate of serious crime committed by juveniles.\textsuperscript{27}
\end{quote}

Many people still believe the delinquent should be rehabilitated rather than punished, while others think juvenile delinquent should be punished as adult criminals. The attitude that the juvenile should be punished or rehabilitated is correlated with the attitude that the juvenile should be employed as undercover informants. If the juvenile are not supposed to be punished rather than rehabilitated, then they should not be used as undercover informants because doing so will sent them back to the criminal world again. Most people think juvenile informants are habitual criminals (delinquent), but the truth is that most of them are first-time offenders. So, even those first-time offenders can be rehabilitated in time, they may reintegrate into society. If juvenile are supposed to be punished for their behavior, then it does not matter if they are put back into the criminal world again.

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\textsuperscript{25} Mary Dodge, \textit{Juvenile Police Informants: Friendship, Persuasion, and Pretense} 234, (2006). This article is recommended to readers who are interested in police officers’ attitudes toward the use of juvenile informants. There are several interviews of local police officers about the issue of Juvenile informants, and some are very shocking.\textsuperscript{26}
\textsuperscript{26} John C. Watkins, Jr., \textit{The Juvenile Century: A Sociolegal Commentary on American Juvenile Courts} 43, (1998).\textsuperscript{27}
\textsuperscript{27} Martin R. Gardner, \textit{Understanding Juvenile Law} 185, (1997).\textsuperscript{27}
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V. Relative Laws

Tragedies always trigger the birth of new law. After the death of seventeen-year-old Chad MacDonald, California enacted Chapter 833, which establishes guidelines and restrictions when using minors as informants. Following the death of Rachel Hoffman, Florida passed “Rachel’s Law”, which also established guideline for law enforcement to deal with juvenile informants. However, both laws are criticized.

A. Chapter 833

Chapter 833 was enacted in response to the tragedy of Chad MacDonald. This Chapter was created to set up guidelines and procedures when it comes to the use of underage informants. Generally, Chapter 833 bans any use of children under age of 12, and set limits for use of juvenile between 13 and 17 years old. The court has the power to authorize law enforcement to employ a minor between 13 and 17 years old, but need to take those factor into consideration: (1) the age and the maturity of the minor; (2) the gravity of the minor’s alleged offense; (3) the safety of the public; and (4) the interests of justice, which includes if the minor agrees to the act as an informant voluntarily, knowingly, and intelligently. Moreover, the court need obtain consent from the juvenile’s parent or guardian before give the authorization. Also, the court should tell the minor the benefits if he or she cooperates with law enforcement, and the minimum and maximum sentence for his or her offense.

Supporters of Chapter 833 state that the aim of this Chapter is to ensure the safety of minor informants by taking several crucial factors into considerations, and in order to use a minor as an informant, the law enforcement must obtain consent from both minor’s guardian and the court.

Opponents argue that the Chapter actually poses more danger for the juveniles. First, acknowledging that children under 12 years old are forbidden to be used as informants, drug dealers and other criminals will actively seek children under age of twelve. Therefore, more danger will be brought to children under 12 years old. Secondly, the Chapter takes the benefits away from minors who freely agree to act as informants. Those benefits include leniency in arrest, and the reduction of charges and sentencing. Last but not least, the Chapter only gives the court the power to authorize the law enforcement to use mature minors as informants, but it does not provide further protection. Even the Chapter was enacted before Chad MacDonald was killed, he would probably not survive either, because the police did not provide adequate protection and supervision over him, and Chapter 833 does not require law enforcement to do so.

B. Rachel’s Law

In response to the death of Rachel Hoffman, State of Florida passes “Rachel’s Law”. However, the generally accepted original version of “Rachel’s Law” was stripped of the key provisions. Below is the original Bill:

Each person who is solicited to act as a confidential informant must be given the opportunity to consult with legal counsel before entering into a substantial assistance agreement. If the person is not represented by legal counsel at the time of the solicitation,

29 Leson, supra note 22, at 391.
the law enforcement agency must advise the person of his or her right to consult with legal counsel before entering into the substantial assistance agreement.

However, the final version of the Bill was stripped of the provision that the potential informants have the right to consult with legal counsel. The final version is here:

A law enforcement agency that uses confidential informants shall ... [p]rovide a person who is requested to serve as a confidential informant with the opportunity to consult with legal counsel upon request before the person agrees to perform any activities as a confidential informant. However, this section does not create a right to publicly funded legal counsel.

One of the differences between the original version and the final version is that in the original version, it is the law enforcement’s responsibility to inform the potential informants that they have the opportunity to consult with legal counsel; however, in the final version, the responsibility falls on the shoulders of the potential informants to request for legal counsel. Another important difference is that, in the original bill, the law enforcement was required to consider “[t]he propensity of the target offender for violence.” This provision sets limits if the law enforcement intend to send non-violent informants into violent environment, like drug dealing; however, in the final version of the Bill, this provision does not appear.

Both Chapter 833 and “Rachel’s Law” only softly touched on the issue of confidential informants. More specific and comprehensive laws should be created to secure the qualification and safety of informants, especially juvenile informants.

VI. RECOMMENDATION

The primary duty of police is to protect the life and property of citizen by fighting any type of crimes. When it comes to drug war, it is often associated with the juvenile. Juveniles are active participants in drug dealing. In order to gain effective information from the young delinquent, the law enforcement uses minor informants. However, this can put juveniles in predictable danger. I recommend that law enforcement not use any juvenile informants, but other effective techniques to gain information.

The first recommendation is to create and enact laws that restrict the use of juvenile informants. Since juvenile are physically and psychologically immature, putting them in a dangerous criminal world should be the last resort. Speaking for law enforcement, juveniles may provide unreliable information, because they tend to exaggerate the truth and brag their undercover advantages with police. More importantly, the primary philosophy of juvenile justice system is to rehabilitate the delinquents, rather than put them back into criminal world. Chapter 833 and “Rachel’s Law” are good examples for other states, but the shortcoming of either law is detrimental for potential informants.

Other than using juvenile informants, there are many effective ways to gain criminal information. One successful technique is to use young-looking police officers to undertake undercover operations, because they are more prepared and mature. Before using juveniles as informants, the law enforcement must utilize other means of gaining information.

31 Bobby Little and Mike Bishop, Minor Drinkers/Major Consequences: Enforcement Strategies for Underage
Last but not least, training, supervision and protection should be provided for potential minor informants. Most minor informant tragedies happen because law enforcement does not provide adequate supervision and protection.

CONCLUSION

Juveniles, a relatively weak group in society, need more protection and education. But when they have interactions with crimes and laws, education and rehabilitation should still be the primary tasks. Putting delinquent juveniles back into criminal world by using them as undercover informants is against the primary goal of rehabilitation. Comprehensive laws should be enacted in order to protect minor delinquents. These laws should restrict the use of minor informants by taking minor’s age, maturity, physical condition, psychological condition, and other necessary factors into consideration. Also, consents from parent or guardian should be obtained before putting minors in the position of informants. Minor informants should be the last resort for law enforcement, because using them as informants can result in catastrophic consequences.

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