

FBI 'Spooks' Prove Vital As Informers

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The FBI's timing was perfect.

When agents, tipped by an informant, swooped down on Camden, N.J., Selective Service headquarters early on Aug. 22, 1971, they caught antiwar activists redhanded, destroying draft board records.

The government had a full file on the "Camden 28," with names, places, dates and detailed plans being supplied regularly by a source inside the organization.

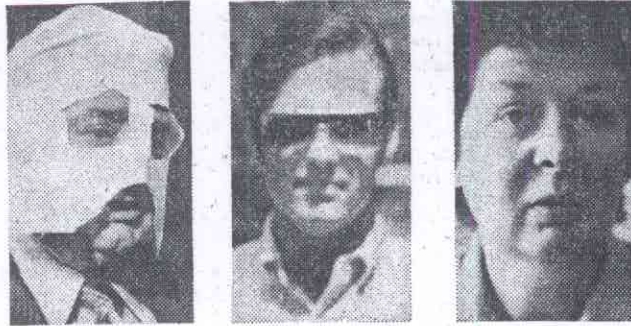
It seemed an airtight case. But it fell apart when the undercover informant, a Camden housepainter named Robert W. Hardy, suddenly did an about-face.

Testifying for the defense rather than the government, Hardy referred tear" and blamed the FBI for using him to set up and push the draftboard raid.

And so a jury, persuaded that the feds had exceeded the limits of what Judge Clarkson S. Fisher called "reasonable law enforcement," acquitted 17 defendants. The government dropped charges against the rest.

Hardy is a classic illustration of an undercover informant going sour, at least from the FBI's point of view.

The FBI's undercover informants have become a continuing cause for FBI chagrin in recent years. Among them:



ROWE

DOUGLAS

MOORE

...embarrassing FBI informants

— Sara Jane Moore, who fired a shot at President Ford in 1975 (she missed);

— Gary Thomas Rowe Jr., who was riding with three other men when they killed civil rights worker Mrs. Viola Liuzzo in Alabama in 1965, and who has since been linked with church bombings and other

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violence of the time;

— Timothy Redfearn, imprisoned last year for burglarizing Socialist Workers Party headquarters;

— Boyd F. Douglas Jr., a convict and con man who spent 14 hours on the stand in 1972 trying — unsuccessfully — to persuade a Harrisburg jury that the Rev. Philip Berrigan and six others conspired to kidnap Henry A. Kissinger.

The Justice Department is keenly aware of the dangers of sending out spooks to do an agent's job.

Testifying before a Senate subcommittee considering possible statutory restraints on information gathering, Assistant Attorney General Philip B. Heymann last month admitted to such concerns. Using informants, he said, "inevitably creates the potential" for invading privacy, undermining the independence of legitimate institutions and crimes by agents provocateurs.

However, said Heymann, "the use

— informants is a most important investigative technique, one that we use in our efforts to combat organized and white collar crime, official corruption, narcotics and organized violence."

Neil J. Welch, special agent in charge of the FBI's Philadelphia office who has been named to head the bureau's New York office, says informants are "the number one weapon no matter what you're investigating. You're not going to get the job done without them."

It's an opinion seconded by former Philadelphia Special Prosecutor Walter M. Phillips, Jr., and just about every other expert in law enforcement.

The American Civil Liberties Union, on the other hand, is urging that Congress require federal agencies get a court order before placing undercover informants.

Heymann called such a requirement unworkable.

"The wide range in the activities of informants and their relationship to the government would make it extremely difficult to determine judicially when warrants were required and to impose limits on the activities permitted," he said.

Three months ago, FBI Director William H. Webster tried to minimize the informant problem before a meeting of newspaper publishers in Atlanta.

He said the FBI now has only 42 informers on domestic intelligence and terrorism matters, and has abandoned its practice of using informers to spy on "First Amendment (free speech)

organizations" engaged in public dissent.

"We have 61 individuals and 12 organizations under investigation," said Webster, (but) "in every case there is a criminal statute involved."

By contrast, the FBI is said to have used 1,300 informers in a single long-term investigation of the Socialist Workers Party, which is now suing the Justice Department to get its files on 18 informers.

Attorney General Griffin B. Bell has been held in contempt of court for refusing to release the files. Bell has appealed.

The FBI always has guarded jealously the identity of its informants, figuring that weakening the security would weaken the bureau.

"It has a street reputation for protecting informants," said a former assistant in the U.S. attorney's office in Philadelphia, relating how he once was ready to unmask an informant who had suckered the agency with bad tips.

"No way," an agent responded. "We don't blow anyone's reputation. We have got to protect the bureau."

In December 1976, then Attorney General Edward H. Levi sent then FBI Director Clarence M. Kelley a set of strict guidelines on use of informants.

The bureau, the guidelines said, "shall instruct all informants they shall not participate in acts of violence; use unlawful techniques (breaking and entering, electronic surveillance, opening mail) to obtain information; initiate a plan to commit criminal acts, or participate in criminal activities of persons under investigation (except if the FBI determines such participation is necessary to obtain the information needed for federal prosecution)."

While the spotlight focuses on the FBI, the ACLU points out that there are no state laws anywhere in the U.S. regulating the use of informants by police.

That's true, said Phillips, although he added, "Case law (numerous court rulings) forbids entrapment. You can't induce someone to commit a crime who is otherwise not predisposed to commit a crime."

In addition, an officer seeking a search warrant can be required by a judge to establish his informant's reliability, according to Assistant Pennsylvania Attorney General J. Andrew Smyser. And a judge may insist that information is so prejudicial to a defendant that he will exclude evidence unless the informant is identified, he said.

In New Jersey, the Division of Criminal Justice is preparing guidelines on such things as evaluating, controlling and paying informants, for use by county prosecutors and police.

While all police departments get tips from outsiders, money is scarce

at the state and local level for paying undercover informants, according to Pennsylvania law enforcement officials.

"At the same time, it requires a tremendous commitment on the part of a department to put one of its own people undercover," said Bernard L. Siegel, chief of investigations for Philadelphia District Attorney Edward G. Rendell.

"So, there is very little undercover work going on except in the drug field, based on my experience and talking with other DAs," said Siegel.

The Pennsylvania Crime Commission, says Director Joan Weiner, uses informants "extensively," especially in organized crime investigations, and "has never run into any problem."

Unlike the federal government, Pennsylvania has no full-fledged "witness protection" program to supply informants with new identities and a place to hide out, although the Crime Commission has helped to relocate a few.

Daniel Joseph, a notorious informant for state narcotics investigators, was placed under U.S. marshals' protection in Virginia when his undercover efforts were no longer needed in Pennsylvania. Fourteen months ago, Joseph was found dead in his Richmond apartment.

Last week the Justice Department's Heymann stated again that, despite rumors to the contrary, Joseph's death was accidental.