

THE ASPECTS OF CRIMINAL CODE AND CRIMINALISTICS IN USING INFORMANTS AND UNDERCOVER INVESTIGATORS RELATED TO ORGANIZED CRIMES INVOLVING DRUG ABUSE

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Abstract

According to the UNDOC (UN Office on Drugs and Crime) records, around 5% of the world's adult population, aged 15-65, are dependent on psychoactive substances. Drug abuse is a multiform problem of the modern society. As it represents an accessible source of huge amounts of money, criminals, and organized criminal groups in particular, while making use of addicted individuals and the global situation, get hold of the huge proceeds and social power too. To speak about the crimes involving drug abuse, without elaborating on organized crimes would be quite frivolous. If it was about the individual cases that involve production, resale and consumption of narcotic drugs, this would not be a significant social issue and the majority of the world's states would easily tackle it. Yet, the global situation is the opposite and 'Organized crime forces' derive the majority of their income from the production, smuggling and resale of drugs. Bearing in mind some particular characteristics of organized crime such as the rise of professionalism, specialization among delinquents, abuse of technical achievements, covert operations, aspirations to acquire political and economic power, internationalization, planned execution of activities, hierarchy and division of labour, corruption, intimidation, it is clear that material costs of prosecution authorities fighting against this type of crime are increasing at a dizzy rate. In this paper, therefore, we elaborate upon criminalistics and intelligence operations and 'live sources of information' and informants and undercover police investigators acting from the aspect of criminal law and criminalistics in Bosnia and Herzegovina, especially bearing in mind their procedural law protection and limitations to enter the so-called criminal zone. Both entities act under particular circumstances and in the specific environment for police and judicial authorities who work on special tasks, so that their physical and procedural law protection is an important segment of their training.

Keywords: Drugs, Organized crime, Police training, Aspects of criminal code and criminal procedure code, Bosnia and Herzegovina.

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Introduction

Speaking about the crimes that involve drug abuse, without elaborating on organized crimes, would be quite frivolous. If it was about the individual cases that involve production, resale and consumption of narcotic drugs, this would not be a major social issue at all, and the majority of the world's states would easily tackle it. Yet, the global situation is just the opposite and 'Organized crime forces' derive the majority of their income from the production, smuggling and resale of drugs.

A more dangerous type of crime is when a criminal offence is committed by several persons than the one committed by one person (Srzentić, Stajić, Lazarević, 1980). It is a rather frequent phenomenon that several persons participate in the commission of a criminal offence. The practice has shown that there are different types of individual participation in the perpetration of criminal offences, depending on the contribution of a particular participant to bringing about the forbidden consequence (Čepek, Modly, Posavac, Veić, 1993).

There is no unique definition of 'organized crime' in the world we live in nowadays. Many experts in this field keep attempting to define this type of crime, giving thus an important scientific contribution. Yet, a precise definition would not be of any help in fighting the organized crime. It must be admitted, however, that it would set the main starting points for further action and bringing together the international efforts to fight organized crime. One thing is obvious - the main drive of organized crime is profit, and it is present anywhere where there is a lot of money in circulation (Petrović B., Dobovšek B., 2007).

The law enforcement authorities in Bosnia and Herzegovina have to follow the laws of criminal procedure and act under the Prosecutor's supervision while undertaking efforts to detect and prove organized crime offences, as the hearing results will largely depend on how efficiently the previous procedure or investigation was led. The activities aimed at detecting and proving organized crime offences involve the so-called Special Investigative Activities such as secret monitoring, surveillance and technical recording of phone calls, undercover investigators, surveillance and technical recording of premises ...

Bearing in mind some of the particular characteristics of organized crime, such as the rise of professionalism, specialization among delinquents, abuse

of technical achievements, covert operations, aspirations to acquire political and economic power, internationalization, planned execution of activities, hierarchy and division of labour, corruption, intimidation (Petrović – Meško, *Kriminologija*, Sarajevo- 2008), it is clear that material costs of prosecution authorities fighting against this type of crime, are increasing at a dizzy rate. Some countries lack the required financial capacities to deal with this issue in a timely manner.

It is clear that organized criminal groups invest significant portions of the money earned into procurement of the latest scientific and technological achievements in order to be ahead of the police at any moment.

It is absolutely clear too that, if prosecution authorities were in possession of the latest technological devices, they would still lag behind organized crime, since the technology alone without 'live sources of information' will never produce enough results to fully 'dismantle' an organized criminal group. Therefore, we devote this paper to criminal intelligence operations and 'live sources of information' to which we will add informants and undercover police investigators.

Averting organized crime activities requires an elaborated strategy, the planned and systematic activities from the very first step to the legally binding verdict, based on science and strictly within legal frameworks (Fejš I. 2002).

For police officers to be appropriately prepared for this kind of investigation of criminal offences, and not to fall in the trap of taking activities that are not in accordance with the law, it is necessary to be provided continuing education and training.

The criminal law aspects of drug-related crime and organized crime according to the criminal legislation in Bosnia and Herzegovina

Criminal offences related to narcotic drugs in the entity-level law are classified in the group of criminal offences *against people's health* (chapter XXI CC FBiH¹), involving two articles of the Criminal Code of FBiH –

¹ Entity-level law of the Federation BiH, being one of two entities of which Bosnia and Herzegovina consists of.

01. *Unauthorized production and sale of narcotic drugs*² and – 02. *Possessing and enabling the enjoyment of narcotic drugs*³. (Korajlić, 2011)

a. *Unauthorized production and sale of narcotic drugs* is, according to our legal definition, an act that involves unauthorized production, processing, selling, or offering for sale or buying for the purpose of sale, holding, transmitting or acting as an intermediate in the sale or placing on the market in an unauthorized manner substances or medicines that have been prescribed as narcotics. (Petrović, Jovašević, 2005.)

Paragraph 2 of this Article specifies two qualified - more serious types of this offence. One involves organizing a group of people⁴ with the aim of processing, selling or offering for sale narcotics, without authorization, and the other one involves belonging to a group of people⁵ organized to produce or offer for sale drugs, without authorization. In both cases sound punishment is predicted.

b. *Possessing and enabling the enjoyment of narcotic drugs* is, according to our legal definition, an act that involves inducing another to enjoy narcotic drug, or giving to another narcotic drug for his or the use of a third person, or rendering available premises for the enjoyment of narcotic drug, or otherwise enabling another to enjoy narcotic drug. (Petrović, Jovašević, 2005).

² Article 238 of the Criminal Code of FBiH

(1) Whoever, without authorization, processes, sells or offers for sale, or purchases, keeps or transfers for sale, or acts as intermediary in a sale or purchase, or otherwise without authorization puts into circulation substances or preparations which are declared by regulations as narcotic drugs, shall be punished by imprisonment for a term between one and ten years.

(2) Whoever organizes a group of people with the aim of perpetrating the criminal offence referred to in paragraph 1 of this Article, or whoever becomes a member of such a group of people, shall be punished by imprisonment for a term not less than three years.

(3) Whoever, without authorization, manufactures, procures, possesses or gives for use the equipment, material or substances that he knows are intended for the production of narcotic drugs, shall be punished by imprisonment for a term between six months and five years.

(4) Narcotic drugs and means for their processing shall be forfeited.

³ Article 239 of the Criminal Code of FBiH

(1) Whoever induces another to enjoy narcotic drug, or gives to another narcotic drug for his or the use of a third person, or renders available premises for the enjoyment of narcotic drug, or otherwise enables another to enjoy narcotic drug, shall be punished by imprisonment for a term between three months and five years.

(2) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article against a child, juvenile or against a number of persons, or if particularly grave consequences are caused, the perpetrator shall be punished by imprisonment for a term between one and ten years.

(3) Whoever possesses narcotic drug without authorization, shall be punished by imprisonment for a term not exceeding one year.

(4) Narcotic drugs shall be forfeited.

⁴ Organizer of criminal group

⁵ Member of criminal group.

A qualified – more serious type of the criminal offence is defined in Paragraph 2 of this Article in those cases when the criminal offence is perpetrated against a child, a minor⁶ or against several persons⁷ or if it caused very severe consequences⁸. (Petrović, 2004.)

Apart from the above incriminations laid down by the entity-level Criminal Code of FBiH, the state of Bosnia and Herzegovina decided to introduce a special incrimination of this type of crime into the state-level Criminal Code of BiH, including the Article Illicit trafficking in narcotic drugs⁹ contained in Chapter XVII – Crimes against humanity and values protected by international law. *Illicit trafficking in narcotic drugs* is considered as an act of perpetrating this criminal offence no matter whether it includes unauthorised international transport, transmission, sending, delivery, import or export of narcotic drugs. A qualified – more serious form of perpetration of this criminal offence is described in Paragraph 2 where there are 2 qualified – more serious forms of this criminal offence. The first one involves organizing a group of people¹⁰ with the aim of putting narcotic drugs into international circulation, and the second one involves belonging to a group of people¹¹ organized with the aim of putting narcotic drugs into unauthorised international circulation. In these cases sound punishment is predicted. (Petrović, 2004)

As regards the crimes in which several persons participate, it is important to establish in all stages of investigation and during the implementation of

⁶ According to our legislation, a child is a person of 14 years and under, and a minor is a person aged 14 to 18. The introduction of this incrimination as a qualified form was propelled by the UN Convention against the illicit traffic in narcotic drugs of 1988, with its preamble reading 'The Parties to this Convention are deeply concerned by the steadily increasing inroads into various social groups made by illicit traffic in narcotic drugs and psychotropic substances, and particularly by the fact that children are used in many parts of the world as an illicit drug consumers market.'

⁷ The perpetrator, by performing an action or several actions successively, enables many persons to enjoy narcotic drugs.

⁸ If a death occurred as a consequence of enjoyment of narcotic drugs, or person's life was brought into danger or person's health was harmed permanently... even in case that a person who used narcotic drugs committed suicide

⁹ Article 195, Criminal Code BiH

(1) Whoever without authorization performs an international sale or transfer or offers for such sale, or purchases, keeps, transports or transfers for the purpose of such sale, or intercedes in an international sale or purchase, sends, delivers, imports or exports or otherwise puts into unauthorised international circulation substances or preparations which are by regulation proclaimed narcotic drugs, shall be punished by imprisonment for a term of no less than three years.

(2) Whoever organizes a group of people with an aim of perpetrating the criminal offence referred to in paragraph 1 of this Article, or whoever becomes a member of such a group of people, shall be punished by imprisonment for a term not less than five years.

(3) Whoever without authorization makes, procures, intermediates or gives for use the equipment, material or substances, knowing that they are to be used for the manufacturing of narcotic drugs, when it concerns the international transaction, shall be punished by imprisonment **between one and ten years**.

(4) The narcotic drugs and means for their production shall be forfeited.

¹⁰ Organizer of a criminal group

¹¹ Member of a criminal group

pre-investigation activities the nature of connection among certain individuals perpetrating the criminal offence. This should be done as it is necessary to establish whether there is *complicity* in the perpetration of a criminal offence¹² or a particular criminal offence was perpetrated by *an organized crime group*¹³. When a criminal offence is perpetrated by an organized crime group, then we speak about a special type of crime and complicity representing a higher degree of social danger, which is governed by special provisions¹⁴ in the Criminal Code of Bosnia and Herzegovina. An issue that is very important for law enforcement officers, prosecutors and judges dealing with organized crime cases is a distinction between inciters and perpetrators of a criminal offence, as well as a distinction between accomplices and helpers. In the first case the question arises whether the term perpetrator may involve *indirect perpetrator* i.e. a person who perpetrates a criminal offence through another person. The second case is about making a distinction between co-perpetration, as a more serious form and accessory as a lighter form of complicity. What may be disputable is the issue of incitement and *psychological helping*, as one and the same activity may represent both forms of complicity (Tomić Z. 2008). Although the categorization of individual persons who in any way took part in the perpetration of a criminal offence will be the matter for the court to discuss, these issues are very important for law enforcement officers in order to take their actions (in the first place 'Special investigative activities') in a lawful manner, so as not to 'provoke' with their actions the criminal activities of individuals¹⁵ (Vukoja, Velić, 2015).

As regards 'Associating for the purpose of perpetrating criminal offences', it is worth noting that it is considered as a separate criminal offence in the Criminal Code of BiH, and the offence involves organising a group of people¹⁶ with the aim of perpetrating criminal offences prescribed by the Criminal Code of BiH. The perpetration of such an action involves *organizing a group*¹⁷ or *becoming a member of the group to commit criminal offences*.¹⁸ The criminal offence becomes complete by merely organizing the group or by becoming a member of the group¹⁹ (Petrović 2005).

¹² Articles 29, 30, and 31 of the Criminal Code of BiH

¹³ Article 1, Criminal Code of BiH

¹⁴ Article 249 and Article 250 of the Criminal Code of BiH

¹⁵ What is implied here is the use of informers and undercover investigators who, following the BiH positive legislation, must not incite crimes while carrying out their activities.

¹⁶ Three or more persons

¹⁷ A heavier form of this criminal offence

¹⁸ A lighter form of this criminal offence

¹⁹ Becoming a member of a group means that there is a consent of one person to become a member of the group

The Criminal Code of BiH foresees a criminal offence Organized crime²⁰ as a separate criminal offence. The criminal offence is perpetrated if any criminal offence foreseen by the CC BiH is committed by members of *an organised crime group*²¹ or by organising (directing) an organised crime group who at least attempts to perpetrate any of the criminal offences from CC BIH²² or by merely joining an organized crime group who at least attempts to perpetrate any of the criminal offences from CC BIH.²³ A member of the group who exposes the group may be released from punishment, which is stated as a stimulating measure²⁴.

Criminalistics Aspect – Division of Drug-Related Crime

Criminology, criminalistics and criminal procedure studies have shown that the consequences of drug abuse are manifold, affecting both the individuals who enjoy narcotic drugs and their immediate and extended families, colleagues, society and the entire community. We are all aware of the harmful effects of narcotic drugs. Yet, if adverse health effects caused by drug abuse were the only side effect, it would not probably be regarded as such a serious social problem. Narcotic drugs, however, do not leave consequences only on the individual enjoying them, but they have a negative effect on the entire environment and wider community.

Apart from creating psychological and physical addiction among individuals who enjoy narcotic drugs, their harmful effects are reflected in other social segments as well. A person who enjoys narcotic drugs easily becomes isolated and alienated, community useless, often posing a threat to the community by resorting to criminal activities, and becoming a part of wider social pathology picture. There are many cases of drug enjoyers losing their job because of drug addiction. Then they resort to other forms of social pathology, including criminal activities, trying to obtain funds for drug enjoyment. Very often it is the reason of marriage crashes, beggary, prostitution, gambling and other vices.

There are a few of drug enjoyers who manage on their own to get out of the drug crisis and fully get rid of this vice. They rather stay without adequate family and community support, closed in the world of vices, becoming destroyed physically and mentally. Drugs become and remain the central

²⁰ Article 250 Criminal Code of BiH

²¹ Para 1 and 2

²² Para 3

²³ Para 4

²⁴ Para 5

point and the main motive of their life and existence. They lose contact with the real world and ethical norms of the community, very often surrendering themselves to criminal activities.

There is a generally accepted division of drug-related crimes in our criminology and criminalistics theory. They are divided into following three groups²⁵ :

01. *Primary drug-related crimes*
02. *Secondary drug-related crimes*
03. *Tertiary drug-related crimes*

a. Primary drug-related crimes : This includes all acts of perpetrating criminal offences that involve unauthorized production and release in free circulation of narcotic drugs, their unauthorized possession and enabling the enjoyment of narcotic drugs. According to Modly and Petrović, *unauthorized production* is the agricultural production²⁶ or industrial production²⁷ or industrial processing of natural substances²⁸, while unauthorized circulation of drugs is the sale of drugs, offering drugs for sale, buying for the purpose of sale, holding for the purpose of sale, transfer for the purpose of sale, intermediation in sale or release drugs into free circulation in any other way.²⁹ A more serious form is, according to the law, an act of organizing a group who sells narcotic drugs in an unauthorized manner, or the mere belonging to the group, while a special type involves furnishing a narcotics laboratory for production and processing of narcotic drugs. Merely possessing and enabling the enjoyment of drugs is subject to punishment according to the law. All of the above mentioned examples are the so called primary drug-related crimes.

b. Secondary drug-related crimes : Many authors concerned with these issues (Petrović, Modly, Singer, Milutinović, Aleksić and others) agree that secondary drug-related crimes involve criminal offences perpetrated with the aim of obtaining money for purchasing narcotic drugs and criminal offences perpetrated under the influence of narcotic drugs. The studies conducted in New York and Florida³⁰ show that 69% of male heroin addicts committed a burglary, 60% stole things from a shop, 47% committed a robbery, while almost 72% of female addicts engage in prostitution, 70%

²⁵ Modly D. (1986). *Droge i štetne posljedice njihove zloupotrebe*. 13 May p.76. Tako and Petrovoć B. (2004) *Narkokriminal*. Faculty of law of the University in Sarajevo p.36. Tako and Korajlić N. (2011), *Kriminalistička metodika*, Education and Cultural Centre Tešanj p.450.

²⁶ Cannabis sativa, Papaver somniferum, Coca, ...

²⁷ LSD, amphetamines, barbiturates, antiparkinson drugs...

²⁸ Hashish, Cocain, Morphium, Heroin

²⁹ Giving as a gift, exchange, paying services with narcotic drugs...

³⁰ See more at: taken from Petrović B. (2004), Singer M. (1994) *Kriminologija*

of them in thefts... Petrović made a classification of secondary drug-related crimes into six groups as follows: *family crime*³¹, *crime at work*³², *crime against extended family members, friends and acquaintances*,³³ *classic crime*,³⁴ *direct provision of drugs*³⁵ and *indirect provision of drugs*.

c. Tertiary drug-related crimes: Tertiary drug-related crimes, in short, involve the acts of establishing criminal organizations dealing with the resale of drugs, i.e. international criminal organizations. Such actions are taken by the leaders of those organizations who, in most of the cases, are not in a direct contact with narcotic drugs.³⁶ (Petrović, 2004)

Evidence Taking Procedure

According to the Code of Criminal Procedure of BiH, the following evidence proving procedure is foreseen:

- 1) Search of dwellings and other premises and persons;
- 2) Seizure of objects and property;
- 3) Procedure of dealing with suspicious objects;
- 4) Questioning of the suspect;
- 5) Examination of witnesses;
- 6) Crime scene investigation and reconstruction of events;
- 7) Expert evaluation.

In this paper we are not going to elaborate in great detail on the above procedure. We will just underline that, bearing in mind the principles of the Code of Criminal Procedure of BiH, especially the *principle of legality*, *the principle of presumption of innocence* and *the principle of the law of evidence*, it is clear that, when taking any of these actions, law enforcement officers have to abide by the legal framework, being aware that any kind of improvisation could have a negative outcome at the court. It is also clear that the stated actions cannot by themselves give relevant results in fighting organized crime. By taking, let us call them, '*regular investigative actions*' (evidence proving actions), it is not possible to achieve good results in fighting this type of crimes. Hence, the states lay down '*special*' *investigative actions*, which largely affect human rights and fundamental freedoms

³¹ Stealing from the house, selling things and property, family violence...

³² Stealing things from colleagues at work, stealing property from the company, evasion, fraud ...

³³ Using the relationship of mutual trust they make property-related delinquent acts against family, friends, etc.

³⁴ Thefts, burglaries, robberies, violent behaviour, kidnappings

³⁵ Steel and fill out unfilled prescriptions in hospitals, forge medical prescriptions....

³⁶ To gain profit, which ends up mostly in their own pockets, they do the organisation of work, corruption, money laundering, etc.

of citizens. Given both tendencies in the criminal proceedings, with the aim of getting a court judgement for the criminal group members, police officers have to stick to the letter of the law in the real sense of the word. (Vukoja, Velić, 2015.)

Special Investigative Measures

According to the Code of Criminal Procedure of BiH, the following actions are foreseen as 'special investigative measures':

- a) Surveillance and technical recording of telecommunications,
- b) Access to computer systems and computerized data processing,
- c) Surveillance and technical recording of premises,
- d) Covert monitoring and technical recording of individuals and objects, transportation means and related object,
- e) Use of undercover investigators and informants,
- f) Simulated and controlled purchase of objects and simulated bribery,
- g) Supervised transport and delivery of objects of criminal offence

The majority of these actions, be it the evidence proving actions or special investigative actions, are conducted in combination with one another when clearing up drug-related criminal offences associated with organized crime³⁷. Carrying out special investigative actions requires an Order of the relevant Court according to the criminal legislation of BiH.

Yet, it is not enough for law enforcement officers and prosecutors just to be aware of the provisions of the Law of Criminal Procedure in fighting drug-related organized crimes. As a matter of fact, fighting this type of crimes in an efficient manner requires specific professional knowledge from the operative work and criminalistics i.e. criminalistic tactics and

³⁷ If we assume that we have learned that a group of people has been doing organised distribution of narcotic drugs, and that we have obtained a court order for carrying out special investigative actions, some of them would be carried out in combination with one another in most of the cases. E.g. *Covert following and technical recording of individuals, transportation means and objects related to them with Surveillance and technical recording of telecommunications* or *Use of undercover investigators and informers with Simulated and controlled purchase of objects and simulated bribery*, and maybe also in combination with *Supervised transport and delivery of objects of criminal offence*. Upon implementation or even in the course of special investigative actions, we would sometimes, depending on the particular criminal act, resort to other evidence proving measures such as *Search of dwellings, premises and persons, Seizure of objects and property, Procedure of dealing with suspicious objects, Questioning of the suspect, Examination of witnesses, Crime scene investigation and reconstruction of events, Expert evaluation*,

criminalistic methodology applied in clearing up some kinds of criminal offences. It is worth noting that members of organized criminal groups are very much aware of the police capacities in relation to special investigative and other evidence proving actions based on the application of technique³⁸, which makes them rather cautious. And no less important, these criminal groups are often in possession of better technical equipment than the police itself. In the second part of this paper we will elaborate on the operative work and use of informers and undercover investigators from the criminalistic aspect. These actions belong to the segment of *covert operations*, which include certain rules and procedures to comply with.

Criminal-Intelligence Operations – Selection of Informants and Undercover Investigators

The most important segment in the process of early and any detection of crimes (especially organised crimes), and their proving before the court, is *criminal intelligence*. In that regard, special departments dealing with criminal intelligence operations were established within law enforcement structures in Bosnia and Herzegovina. Generally speaking, these departments conduct the process of developing raw information and turning the pieces of information into final information about criminal activities through the basic stages of the intelligence cycle:

- a) *Planning and directing* as the first and final step of the intelligence cycle. It begins with a need to collect criminal intelligence, and continues with new intelligence-collection requests that are generated from it.
- b) *Collection* of criminal intelligence is a process of collection of information on certain criminal activity.
- c) *Information processing* is a process of turning the great amounts of collected material into a form convenient for analysis.
- d) *Analysis* is a process of turning collected and processed information into final intelligence packages.
- e) *Distribution or dissemination* is a process of submitting the intelligence package to crime investigation departments or prosecutors or other relevant beneficiaries.

Using informants is one of the ways of collecting criminal intelligence.

³⁸ E.g. Surveillance and technical recording of individuals, transportation means and objects or surveillance and technical recoding of telecommunications.

Informant – selection and engagement

Informant is a person who consciously, in an organized, temporary or on-going manner, always secretly, provides police with certain information regarding criminal activities. The police work with informants in BiH is governed by special laws and by-laws. Consequently, given their way of engagement as required by the police or investigation, and given their involvement in the criminal activity, they can appear before the court in the status of a protected witness. Nevertheless, there are so many reasons to avoid, whenever it is possible, having informants appear before the court, even in the status of a protected witness³⁹.

There are other terms for informers that are used in the common police terminology, such as operative links, collaborators, secret reporters ... It is generally known that informants providing information about certain criminal groups are the members of those criminal organizations. Yet, in theory and practice, it is possible to direct skilled informants toward certain criminal groups, although not being members of those groups at that moment, which will largely depend on the skillfulness and training of the operatives who keep the informants away from each other.

Prior to the selection of individual persons to be hired as informants, the operative worker first has to know what can be expected of an informant:

- Collecting data or information about a criminal group or criminal individuals
- Collecting evidence materials necessary for processing a criminal activity⁴⁰
- Creating conditions for the application of other special investigative actions or evidence proving actions⁴¹
- Checking out information obtained from other sources
- Spreading information or misinformation, as the case may be, launched by the police
- Preparing conditions for the involvement of undercover investigators
- Creating conditions and preparing other people, in some cases, for establishing cooperation with the police

³⁹ Regardless of the provisions of the Code of Criminal Procedure about informant witnesses as protected witnesses, a danger of discovering the identity of the informer still remains high.

⁴⁰ In accordance with the provisions of the Code of Criminal Procedure

⁴¹ Informs the police about the whereabouts of criminals and creates conditions for secretly observing them, enables the police to enter the premises where they set technical equipment for audio-visually recording the premises, informs the police about the places where narcotic drugs are hidden to make searches there.

Apart from the above stated, it is necessary to take into account some other elements that are very important for a successful cooperation with the informant:

- At any moment, prior to, during and after the cooperation of an individual with the police, the identity of the individual has to remain secret⁴².
- The cooperation should be based on a voluntary acceptance of a person to become a police informant
- Being truthful to the informer is a very important element of gaining confidence and possibly extending the cooperation including some new tasks⁴³
- Respecting the informer's dignity and professionalism of the operative worker

Hiring informants, naturally, is not done for its own purpose. Before making an access to a potential informant, it is necessary to conduct the basic planned activities such as:

- Selection of an object of interest, i.e. a criminal group, type of crime or environment where the informant is supposed to act
- Identification of candidates for establishing the cooperation with them
- Examining their capacities for cooperation
- Motivators

The capacities of the person identified for establishing cooperation with are assessed from two aspects:

- *Objective capacities* - which means whether the person, actually, can obtain the data which the police might need concerning the object of interest
- *Subjective capacities* – which involves studying the personality of the identified person⁴⁴

⁴² Operative workers too have to possess a high level of security culture, treat the contacts with consideration in terms of not exposing the informant to unnecessary risks and making the informant visible in company with police operatives, reduce to minimum the number of police officers who are aware of the cooperation and identity of the informer...

⁴³ Informers, at any moment, have to be presented the real circumstances vis-a-vis their expectations

⁴⁴ This is very important in the process of hiring, since the informer, apart from working for the police, can very easily ruin a police operation. It is necessary to study one's temper, nature, attitudes, past, origin, education ...

Undercover investigator – selection and engagement

Undercover investigator is a law enforcement officer who, in accordance with the provisions of the Code of Criminal Procedure, with the identity changed, infiltrates into and acts within a criminal group, under the leadership of a law enforcement authority, with the aim of collecting information and evidence necessary for leading the criminal proceedings in an efficient manner⁴⁵.

As it is the most complex type of police activity, and the most stressful task for a law enforcement officer, it is quite clear that the selection of such staff should be made in the best possible way.

According to Jeff Palmer, undercover investigators can be divided into three groups:

- a) *Long-term undercover investigator working on a very secret task*
- b) *Short-term undercover investigator*
- c) *Decoy undercover investigator*

All of these modalities of hiring law enforcement officers as undercover investigators have their advantages and disadvantages. In the law enforcement practice, for instance, undercover investigators are most frequently used as *short-term undercover investigators*. It is an undercover operation in which undercover investigator uses a false identity, establishing contacts with criminals through the intermediation of a police informant and buying goods, which is followed by the arrest and end of operation. *Long-term undercover investigator* performs a secret operation that requires a lot of time and resources. It proved to be the most efficient in fighting highly professional closed criminal organizations. In some cases it will take years of work before the conditions are created for *infiltrating* an undercover investigator into a criminal group, and months, even years of their work within a group. Although we are aware of the advantage of this type of undercover operation, there are some disadvantages too – this kind of operation is expensive, long-lasting, with an increased risk of discovering the undercover investigator by members of the criminal group; the operatives performing this secret task have to cope with extreme stress, are subject to getting into family crises, and it is possible for them to gradually lose the police identity while acting within the group and going into a criminal zone. *Decoy undercover investigator* is a kind of operation in which a law

⁴⁵ It would, theoretically, be possible to hire some persons other than law enforcement officers as undercover investigators. Yet, this is a minor occurrence and, practically, hardly implementable, particularly if we have in mind the status of informants in our Code of Criminal Procedure.

enforcement officer often plays the role of a victim; it is very dangerous and requires the law enforcement officer to be in a very good physical condition (Palmer J. 2006.).

As regards the selection of law enforcement officers who are to be hired as undercover investigators, there are similar criteria followed in most of the countries. They could be classified as follows:

- Meeting general conditions and having absolutely clean police record⁴⁶
- Possessing certain personality traits ⁴⁷
- Types of criminal group or task of the undercover investigator
- Process of education and training

When the selection process is over and the training is finished, the most difficult part comes up – the infiltration of the undercover investigator into a criminal group. The success of infiltration largely depends on good planning, the knowledge about the group based on the data collected, type of undercover operation, etc. One of the key points of this process in all stages of the undercover operation, especially in the initial stages and when establishing the first contact, is *constructing a legend to an undercover investigator*. There are four very important aspects in constructing a legend to a law enforcement officer:

- *Choosing a legend*
- *Developing a legend*
- *Selecting a legend*
- *Applying a legend*

The success or failure of an undercover operation depends on many factors, some of which will sometimes be out of our control. Therefore, it is necessary to prepare the exit strategies for undercover investigators as their life and health are always the priority number one.

Conclusion

Acting in a planned and systematic manner of the police and other security services fighting organised crime is the key of success. Criminal intelligence operations in terms of identifying a problem, i.e. a criminal group,

⁴⁶ Previous years of experience and types of duties performed

⁴⁷ In the sense of intelligence, resourcefulness, integrity, courage

collecting enough data for making intelligence packages as a basis for undertaking other special investigative actions require a great commitment and huge experience of law enforcement officers working on these tasks.

The efficient fight against organized crime cannot be imagined without using *live sources*. In that regard, it is very important to make a good selection and have good training of law enforcement officers who will deal with criminal intelligence and informants, including the training of undercover investigators.

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