Forging a New Legacy

Homeland Security Investigations

Undercover Operations

HSI Special Agent Training

ICE Academy
Terminal Performance Objective

Given a situation where you are conducting a criminal investigation and planning to develop an undercover operation, determine the viability, objectives, and level of authorization needed to conduct the operation following the guidelines as specified in the Undercover Operations Handbook and associated HSI Directives.
Enabling Performance Objectives

- Identify HSI authority to conduct undercover operations and
- Identify the primary concerns, function, advantages, and objectives of an undercover operation Describe the roles and responsibilities associated with those individuals involved in/with
- Identify the policies and procedures relating to the issuance and control of
Review of the Past

Topics covered thus far include: Investigative methods, Confidential informants, Surveillance.
Main Ideas

An undercover operation: Sensitive investigative technique utilized to gather the necessary evidence for prosecution purposes. Concealing the true identity of a government operative. To gain the trust of individuals who are involved in criminal activities.
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Agenda

• HSI’s authority to conduct undercover operations and the Primary concerns, functions, advantages, and objectives of an undercover operation

Roles and responsibilities associated with individuals involved in a

Policies and procedures relating to issuance and control of

Case examples focused on determining if an undercover operation is viable, and if so, what investigative actions to take
HSI Authority To Conduct UC Operations

- HSI is granted statutory authority to engage in certain undercover investigative activities and operations.
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Any investigative activity involving the use of undercover resources and techniques, including the use of an undercover operative. An undercover investigation
Definition: Undercover Investigation

Any investigation involving any undercover activity. This can take place over a period of time. Undercover activity involving any

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Concern and Function of UC Operation

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Advantages of UC Operation

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Objectives of UC Operation

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Key Programmatic Areas
Roles and Responsibilities in an Undercover Operation

- Administrative Overseer (ASAC)
- Investigative Program Manager
- Undercover Case Agent
- Undercover Operative
- Cover Agent
- Administrator
- Undercover Liaison Coordinator (ULC)
Administrative Overseer (ASAC)

• Second-line supervisor with undercover investigative/operational management experience
  Mandatory position in SAC offices that maintain undercover operations

Refer to Student Guide, p. 7
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Investigative GS

• Provides supervision for day-to-day operational and strategic decisions and on-site guidance related to undercover policies and procedures Ensures generation and approval of Ops Plans prior to any undercover activity Ensures sufficient resources are in place to provide necessary safety and security measures prior to any undercover activity

Refer to Student Guide, p. 7
Program Manager

- Has responsibility and authority (through the UC Lead/Administrative GS) to coordinate all administrative aspects of a particular operation. If individual holding this position does not have approval authority within an operation, he or she will coordinate approvals with the appropriate supervisor.

Refer to Student Guide, p. 8
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Case Agent

- Makes day-to-day operational, strategic decisions involving the undercover investigation
- Ensures full Ops plans are developed, approved and briefings conducted before any UC activity
- Prepares, presents investigative findings to AUSA
- Works with UC operatives to monitor case activities, identify operational requirements
- Keeps Investigative GS apprised of case-related activities

Refer to Student Guide, p. 8
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Undercover Liaison Program

- Established for the benefit of personnel directly involved in UC activity
- Protects safety and well-being of each UC agent
- Protects ICE/HSI from liability issues
- National ULC – ensures proper implementation, usage, and coordination of ULC Program
- Primary/Secondary Field ULC – nominated by SAC within AOR

Refer to Student Guide, p. 10
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Legal and Liability Issues

• Consult the Office of Principal Legal Advisor (OPLA) on:
  Legal issues
  National policy issues
  Personal Assistance Agreements

Consult AUSA on issues relating to direction, prosecution of investigation
Otherwise Illegal Activities (cont’d)

• Malum prohibitum – act that is a crime merely because it is prohibited by law, although the act is not necessarily immoral

Actions that may be permitted although against law:
- Purchase and possession of stolen goods or contraband
- Payment of bribes
- Obtaining false documents
- Consensual monitoring
Legal and Liabilities Issues for UC Operative

- Oral communications
- Removal or copying of documents or property
- Alterations of conveyances
- Third party assistance
- Personal Assistance Agreement (PAA)
Selection of Undercover Operative
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Evaluation of Qualifications of UC Operatives

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Levels of UC Operative Certification

- Primary Undercover Role without supervision
- Secondary undercover Role with supervision
- Not Recommended for Undercover Assignments
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Exempt from Training Waiver

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Operations and Approval Levels

• SAC and GS Authorized Operations

Director of HSI Authorized and
SAC and GS Authorized Operations

- Operation anticipated to last less than six months
  Do not involve
  Do not require

Note: If during the course of a SAC approved UC operation and an unforeseen circumstance arises, a proposal must be submitted to HQ UC Operations for the URC’s review.
Executive Assistant Director, HSI may approve operations without review by URC when activities:

Do not involve (b)(7)(E)

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Are anticipated to last more than 6 months but less than 12 months
Executive Assistant Director may approve undercover operations after review by URC when activities: Involve DHS and ICE sensitive circumstances.
Undercover Review Committee (URC)

- URC considers proposals for UC operations and activities involving (b)(7)(E). It considers formal approval for validation of any operation that has been approved under exigent circumstances. It determines whether an operation that has had significant change in direction or objectives requires new authorization.
Purpose of HSI Policy

• Provides greatest degree of flexibility to conduct undercover operations within limits of the law
• Establishes uniform and effective standards of oversight and accountability
• Promotes innovation and creativity in undercover investigations and operations
Major HSI Policy Issuances

- HSI Directive 05-003, Disposition of Excess Proceeds from Certified Undercover Operations
- HSI Directive 05-004, Use of Proceeds to Fund Undercover Training
- HSI Directive 06-004, Undercover Liaison Coordinator Program
- HSI Directive, Management of Critical Incidents
- ICE Interim Use of Force Policy, July 7, 2004
Major HSI Policy Issuances (cont’d)

- Memorandum: Use of Proceeds for Prosecution Related Expenses, November 15, 2004
- Memorandum; Confidential Informant Policy Addendum, May 27, 2004
- Memorandum; Domestic and International Undercover Alien Smuggling Investigations, March 23, 2014
- Notional Immigration Document Handbook, March 27, 2014
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Undercover Training

- Undercover Operatives School (UCOS) – two weeks at FLETC
- Undercover Program Manager’s School (UCMS) – one week at HSI HQ
- Administrator School (UCAS) – One-week training conducted at HSI HQ
- Undercover Liaison Coordinator School (ULCS) – one week at HSI HQ
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Demonstration

Refer to Student Guide, p. 18
Refer to Student Guide, p. 19
Summary

- HSI authority to conduct UC operations and the exemptions granted by Primary concerns, function, advantages, and objectives of UC operation Roles and responsibilities of those individuals involved in and/or with UC operation Level of authorization needed to conduct the operation in compliance with the Handbook and directives Policies and procedures relating to the
Protecting the Borders Against Illicit Trade, Travel, and Finance