

Exclusive: FBI allowed informants to commit 5,600 crimes

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USA TODAY exclusive: New documents show FBI agents gave their informants permission to break the law thousands of times in 2011.



(Photo: Jane Flavell Collins, AP)

WASHINGTON — The FBI gave its informants permission to break the law at least 5,658 times in a single year, according to newly disclosed documents that show just how often the nation's top law enforcement agency enlists criminals to help it battle crime.

The U.S. Justice Department ordered the FBI to begin tracking crimes by its informants more than a decade ago, after the agency admitted that its agents had allowed Boston mobster James "Whitey" Bulger to operate a brutal crime ring in exchange for information about the Mafia. The FBI submits that tally to top Justice Department officials each year, but has never before made it public.

Agents authorized 15 crimes a day, on average, including everything from buying and selling illegal drugs to bribing government officials and plotting robberies. FBI officials have said in the past that permitting their informants — who are often criminals themselves — to break the law is an indispensable, if sometimes distasteful, part of investigating criminal organizations.

"It sounds like a lot, but you have to keep it in context," said Shawn Henry, who supervised criminal investigations for the FBI until he retired last year. "This is not done in a vacuum. It's not done randomly. It's not taken lightly."

USA TODAY obtained a copy of the [FBI's 2011 report](http://www.documentcloud.org/documents/742049-fbi-oia-report.html) under the Freedom of Information Act. The report does not spell out what types of crimes its agents authorized, or how serious they were. It also did not include any information about crimes the bureau's sources were known to have committed without the government's permission.

Crimes authorized by the FBI almost certainly make up a tiny fraction of the total number of offenses committed by informants for local, state and federal agencies each year. The FBI was responsible for only about 10% of the criminal cases prosecuted in federal court in 2011, and federal prosecutions are, in turn, vastly outnumbered by criminal cases filed by state and local authorities, who often rely on their own networks of sources.

"The million-dollar question is: How much crime is the government tolerating from its informants?" said Alexandra Natapoff, a professor at Loyola Law School Los Angeles who has studied such issues. "I'm sure that if we really knew that number, we would all be shocked."

A spokeswoman for the FBI, Denise Ballew, declined to answer questions about the report, saying only that the circumstances in which its informants are allowed to break the law are "situational, tightly controlled," and subject to Justice Department policy. The FBI almost always keeps its informants' work secret. The agency said in a 2007 budget request that it has a network of about 15,000 confidential sources.

Justice Department rules put tight limits on when and how those informants can engage in what the agency calls "otherwise illegal activity." Agents are not allowed to authorize violent crimes under any circumstances; the most serious crimes must first be approved by federal prosecutors. Still, the department's Inspector General concluded in 2005 that the FBI routinely failed to follow many of those rules.

The rules require the FBI — but not other law enforcement agencies — to report the total number of crimes authorized by its agents each year. USA TODAY asked the FBI for all of the reports it had prepared since 2006, but FBI officials said they could locate only one, which they released after redacting nearly all of the details.

Other federal law enforcement agencies, including the ATF and the DEA ([/story/news/2012/10/07/informants-justice-crime/1600323/](http://www.usatoday.com/story/news/2012/10/07/informants-justice-crime/1600323/)), said last year that they cannot determine how often their informants are allowed to break the law.

"This is all being operated clandestinely. Congress doesn't even have the information," said Rep. Stephen Lynch, D-Mass., who sponsored a bill that would require federal agencies to notify lawmakers about the most serious crimes their informants commit. "I think there's a problem here, and we should have full disclosure to Congress."

Bulger, long a notorious Mob figure, is facing murder and racketeering charges in federal court in Boston. Prosecutors allege that he used his status as an FBI informant to steer police away from his own crime ring. Bulger has not disputed some of the charges against him, but his lawyers insist that he was not an informant; the former crime boss on Friday called the case "a sham."



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