Application of Criminal Informant in Investigation Activities

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Abstract: Criminal informant is a special reconnaissance force used in investigation work. Criminal informant should be clearly defined and limited in terms of its scope of application, specifying the conditions and procedures for establishing Criminal informant. Strengthen the Supervision and Restriction Management of the Use of Criminal informant in Investigation Organizations.

1. Introduction

Criminal informant is a special investigative force used in the investigation. As one of the top-secret criminal investigation tactics, the purpose of setting up the Criminal informant lies in investigating and obtaining evidences and obtaining clues on cases in a secret manner. In the new historical stage of governing the country according to law and building a socialist country governed by the rule of law, Criminal informant, as an important means of investigation, can no longer be covered in a mysterious veil but should enter the field of legislation and theory.

2. The research on Legal Basis of Criminal Informant

According to textual research, as a special means of secret investigation, Criminal informant appeared on the eve of national liberation. With the development of the revolutionary, the work of security guarding was also getting more and more perfect. At that time, the relevant state departments of the State adjusted the concealed forces and canceled the original net members and guardians and formally named them Criminal informant. According to historical records, the Xia Dynasty appeared on the scene of dispatching people to go into spy activities secretly and in-depth inside the foreign country, but the name used at that time was inter-use. Investigation activities in the Song dynasty often used Criminal informant to identify cases and arrest criminals.

Criminal informant in New China stemmed from the defending work during the second domestic revolution. In September 1953, the second national public security work conference put forward the proposal of making planned and focused projects and setting up special circumstances around complex suspects in complex areas, places, industries and major suspects ... In March 1981, the Ministry of Public Security issued the Criminal informant Work Details (tentative measures), which made comprehensive and specific provisions on the construction of Criminal informant. It increased the authority of the county public security bureau to build property and the rural areas to establish Criminal informant and Provisions on the protection of Criminal informant in criminal proceedings. In August 1984, the Ministry of Public Security formally issued the Criminal informant Work Details, the first official regulatory document in the process of Criminal informant work. In 2001, the Ministry of Public Security formulated and issued the Criminal informant Work Regulations, putting forward new requirements for the Criminal informant construction in the new period.

The history of the emergence and development of the Criminal informant in our country is rather long. The legal basis for applying the Criminal informant at the present stage is mainly the relevant work rules or regulations promulgated by the Ministry of Public Security. What are the nature of these regulations issued by the Ministry of Public Security? Ministry of Public Security is entitled to release it? This needs to be considered on the order of the legislature. However, the matters stipulated in the departmental rules and regulations shall belong to the implementation of laws or the administrative regulations, decisions and orders of the State Council. Although there are still
controversies over the power of investigative powers of public security organs over the executive power and judicial power, there is not much opposition to the fact that the public security organ is an administrative organ and its activities belong to administrative activities. The main basis of the investigative powers of the public security organs is the Criminal Procedure Code. Article 3 of the code stipulates clearly that the investigation, detention, execution of arrest and pre-trial of criminal cases shall be handled by public security organs.

3. The research on Applicable Category of Criminal Informant

The applicable scope of Criminal informant can still be recalled in ancient China. In the 6th century BC, Sun Wu, a well-known military expert in our country, discussed in detail the applicable scope of inter-use in The Art of War and categorized the inter system into the countryside (using informants in the enemy's country), inner (Buying or using enemy spies for my purposes), death (deliberately making or faking leaks of information to the enemy), living (sending spy to the enemy’s party to investigation, and then return to report). Although the field of application of military in The Art of War is a military struggle, these methods and methods in the field of military affairs have had a profound impact on the theory and practice of detection in later generations. However, the specific field of application does not specify in The Art of War, and these means can be used in military means.

However, military activities and criminal activities are different. Military activities are outward-looking activities between countries and regions, while criminal activities are activities within a country or region. Military activities pay more attention to results and have lower requirements on procedures. While criminal activities pay more attention to procedural justice, they also demand results. However, if the result is illegal, it is also regarded as illegal under many circumstances, such as the poisonous tree principle. Therefore, Criminal informant, from the early means of military struggle to the means of criminal investigation in the modern sense, the most important change is to compare the main value of its procedure. The value of the procedure is firstly embodied in the strict rules of its scope of application. At the very beginning of the founding of our nation, Luo Ruiqing, then minister of the Ministry of Public Security, put forward at the first national public security and administrative work conference: Combating banditry, banditry and feudal rogue organizations, we allow special work to be done. Unfortunately, China's criminal investigation of Criminal informant do not have the strict rules and restrictions, as long as the investigators find it necessary being adopted.

Combined with the practice of most western countries, we should make clear the legal provisions and restrictions on the scope of Criminal informant, for example, it can only be aimed at special and major criminal activities. The United States Department of Justice's Guidelines for the Investigation of Secrets established in 1981 stipulated that the application of the Criminal informant was mainly anti-espionage cases and the suppression of gambling, drug trafficking, arms smuggling and anti-terrorism. Criminal informant in Germany is mainly applicable to the investigation of narcotic drug trafficking cases and organized crime cases. The Rules of Investigative Power adopted by the United Kingdom in 2001 provides that the police may use a covert manner such as undercover police, informants, direct interception or intrusion monitoring to deal with serious organized crime.

4. The research on Application Procedure of Criminal Informant

Criminal informant's applications should include specific conditions for Criminal informant, Universal Build conditions for Criminal informant and Case Applications for Criminal informant.

4.1 The specific requirements for Criminal informant is not the same in different periods.

Early Criminal informant were not strictly identified from Public security eyes and ears. In the early days after the founding of our nation, some of the special features first laid by the urban criminal investigation department were called criminal detectives, mainly from the middle of criminals. The principle of poisoning by poison was adopted. In order to improve the quality of Criminal informant,
since 1955, state regulations strictly prohibit the organization of special-purpose personnel created from criminals or have such special-purpose personnel to manage and command Criminal informant and even rely on such people to establish development Criminal informant. It is not a matter of surrendering and rebelling for evil and protecting the bad guys. In other words, Criminal informant is generally an ordinary citizen without a criminal record, but does not rule out the inaction of criminals in any particular case.

4.2 **What is the general procedure for establishing Criminal informant?** According to the provisions of the Criminal informant Work Details of the Ministry of Public Security, the powers of examination and approval of various types of Criminal informant belong to the competent public security organs. Specifically, the special intelligence informant and control informant are reported to the responsible comrades of criminal investigation departments of the public security organs of cities and counties for approval; the right of approval of the Criminal informant of the project is the same as the authority of approving the establishment of special reconnaissance cases. Some scholars have suggested that since the whole process of the investigation of the Criminal informant from the decision to the concrete exercise is handled by the public security organ, none of them is involved in the restriction of a neutral third party recognized by law. The fairness of the procedure is questionable. Therefore, there should be a procedure for the establishment of third-party intervention and supervision and control. However, I think it is very difficult, for the main purpose of establishment and using of Criminal informant is to collect intelligence. As a secret investigative tool, Criminal informant places particular emphasis on the principle of confidentiality and single-line leadership. Confidentiality is one of the most important principles that it must be complied with. Even in the investigation department, it is the confidential know-how as narrow as possible. Therefore, Criminal informant are different with those investigation may cause personal and property damage and pay more focused on gathering and collation criminal intelligence, and it does not have a direct impact on the specific personal and property, so there is no need to perform judicial review program.

4.3 Case application for Criminal informant mainly refers to the ad hoc application of the program. The special case of a project refers to the Criminal informant used for the investigation of special cases of insiders. Some of these special cases are temporarily established according to the needs of investigation and the others are partly trained by criminal investigation departments according to the regularity of criminal activities. Their specific tasks are to investigate the cases of major and extramarital crimes and criminal syndicates that are being premeditated or have already taken place; to conduct secret investigations and surveillance controls on the subjects under investigation; to understand the activities of the investigating subjects; to get the facts of the crimes or the criminal intent and evidence or clues. Project informant can be specially set up, you can also convert other informant. Approval authority has been mentioned, it is important to note that, due to the ad hoc and other Criminal informant differences, mainly in the clarity of purpose and the urgency of the task, so its application and the examination and approval procedures should be particularly cautious and strict. The scope of the Criminal informant mentioned above mainly deserves to be ad hoc and therefore it is not appropriate to broaden its scope of application.

5. **The research on Monitoring Mechanism of Criminal Informant**

People who provide information on criminal activity are referred to as informants or eyeliners in the United States, and dealing with informants is dangerous. *You grab it, just like a snake*, said Steve Moore—an agent from Los Angeles. *You have to be careful and firm, and you know when you can let go.* But reality in this proportion is difficult to grasp, agents and informants often occur to problems. It can be seen that the use of Criminal informant, especially the use of gray Criminal informant, presents a dilemma. It is conducive to the detection of crimes, but it is easily misused. It is difficult to collect clues of criminal evidence if no informant. So how to supervise and restrict Criminal informant in Western countries? In order to prevent the police and informants being close relationship, the FBI in the United States has many measures to restrict colleagues to supervise each
other and strict supervision; to verify the informant every three months; to do an internal monitoring every 18 months, to monitor targets include informants; to receive a headquarters check every three years, all of the informants are under review. In addition, in order to prevent excessive abuse of informants by police, prosecutors can monitor informants used by the police and they have the power to veto the use of informants by police.

However in our country, due to the particularity working environment and the secrecy of Criminal informant, Criminal informant's behavior in investigation mainly depends on the report and all of these must be kept strictly confidential. Therefore, if Criminal informant is fraudulently innocent citizens, the costs of exposing and substantiating their wrongdoing are prohibitive. Criminal informant protection must not appear directly in criminal proceedings in order to protect Criminal informant's working secrets. And this is very easy in judicial practice: not only does not meet the relevant provisions of the set, but also violate the relevant provisions of the rules, and prone to Criminal informant protection ineffective and evidence instability. Of course, as we talked about earlier, a neutral third party can intervene in the review is doubtful if the intervention may affect its confidentiality and its effectiveness in practice. Criminal informant should not be supervised and controlled by a third party as a channel for intelligence gathering and acquisition. Instead, it should strengthen the supervision and restriction mechanism within the investigation organ. Such supervision and restriction mechanism includes Supervision and control both the investigation of lower-level and same level public security organs within the legal department, and control and supervision by law department and Discipline inspection and supervision department.

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