

“Rachel’s Law” and the implications for the use of confidential informants by law enforcement agencies in Florida and beyond



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ABM takes a look at the implications of the new “Rachel’s Law” and how abmpegasus™ Source Management, the world’s most advanced software for managing confidential informants, can help.

On May 7th 2009, Rachel’s Law was signed by the Governor of Florida, Charlie Crist. This ground-breaking bill brings into effect, from July 1st 2009, a number of new requirements for Florida’s law enforcement agencies dealing with confidential informants.

Rachel Hoffman, of Pinellas County, Florida, was a 23-year-old girl who had recently graduated from Florida State University. In 2008 she was arrested by Tallahassee Police for the possession of marijuana. The police offered to overlook her prison sentence if she helped them by acting as a confidential informant. The ensuing undercover operation which she was involved in resulted in her being shot dead by the drug dealers involved in May 2008.

Confidential Informants and Proportionality

The use of confidential informants in convicting criminals is a necessary and useful method for law enforcement. However, the management of confidential informants is plagued with risks. These arise from the confidential informant, the unpredictable nature of the operations they become involved in and the relative difficulty of overseeing confidential informant activity. It is these risks which make it imperative that all risks are managed effectively. Rachel Hoffman’s parents have maintained that the risks that she was subjected to were not managed properly and litigation is pending.

Rachel's Law

A year after the death of Rachel Hoffman, bill 0604, named "Rachel's Law" has been approved by the Florida State Senate. The new law will require law enforcement organisations to adhere to a number of procedures. Specifically, law enforcement agencies must;

- disclose certain information to new confidential informants;
- give a new confidential informant the opportunity to consult with legal counsel;
- train persons involved in the recruitment and use of confidential informants;
- adopt policies and procedures to preserve the safety of confidential informants (and the safety of law enforcement personnel, target offenders and the public);
- address the recruitment , control, and use of confidential informants in its policies and procedures;
- establish policies and procedures to asses the suitability of using a person as a confidential informant (using factors such as age, maturity, risk of adversely affecting an investigation or prosecution, history of substance abuse, risk of physical harm to the person or his/her family, emotional instability, unreliability or untrustworthiness);
- establish procedures to maintain the security of records relating to confidential informants, including restricting the availability to those within the force on a need-to-know basis;
- periodically review its practices regarding confidential informants;
- make it clear that acting as a confidential informant does not guarantee his / her right or entitlement to immunity, reduced charges or reduced sentences.

Meeting the requirements of Rachel's Law

abmpegasus™ offers the most complete and advanced software solution for implementing and maintaining all the requirements under Rachel's Law by addressing them in the following ways:

- abmpegasus™ records all contact with confidential informants allowing managers to check that all necessary information has been given to them;
- abmpegasus™ is easy to use, minimising the time needed to train officers;

- abmpegasus™ electronic requests and authorisations allows law enforcement agencies to implement robust procedures surrounding authorisation and management of confidential informants. Automated workflows mean that information is automatically passed to relevant people, supporting and speeding up proper procedures;
- abmpegasus™ includes risk assessment functionality to quickly weigh up the risks of recruiting a new confidential informant against the potential benefits;
- abmpegasus™ is highly secure, incorporating various levels of state-of-the-art security features. Each user of the system can be set up with different access privileges to ensure that they only see as much information as they need;
- abmpegasus™ is under constant development, with new functionality being added to meet the changing needs of law enforcement agencies;
- abmpegasus™ reliably records communication with informants which can be used to support law enforcement agencies if they are accused of malpractice.

A global issue

Law enforcement agencies outside of Florida should be wary of dismissing “Rachel’s Law” as being irrelevant to them. The risks surrounding confidential informants are a global concern. The Tallahassee Police case is by no means an isolated one - headlines are appearing on a regular basis around the United States and beyond. A brief glance at the recent press brings up a number of examples;

- A **Philadelphia Police officer** is accused of using a confidential informant, to help falsify evidence to support search and arrest warrants for drugs suspects. The officer is also accused of improperly renting a house to the informant. 52 cases that the officer was involved in will be challenged at a hearing on May 29 2009¹.
- The statement of a confidential informant was the justification for the raid of 92-year-old Kathryn Johnston’s house by **Atlanta Police** in 2006 which resulted in her being shot five times by the narcotics squad. Three narcotics officers were found

¹ Slobodzian (2009) Hearing set on 52 Cujdik drug cases. *Philadelphia Daily News*, 1 May. Available online at http://www.philly.com/philly/news/local/20090501_Hearing_set_on_52_Cujdik_drug_cases.html

guilty of trying to cover up the events and Fulton County prosecutors were forced to dismiss or reduce charges in 69 cases as a result.²

The future of confidential informants

Members of the public are increasingly calling for an end to the use of confidential informants. However, to put an end to confidential informants is to deny a potentially valuable tool in the fight against serious organised crime. It is clear that what is really needed is not an outright abolition of confidential informants, but a more considered and controlled approach to their use and oversight. Software, such as abmpegasus™, is key to mitigating the risk surrounding confidential informants and improving efficiency and good practice within the covert arena.

Further Reading

The Committees on Judiciary; and Criminal Justice; and Senators Fasano and Joyner (2009) *Senate 0604: Relating to Confidential Informants/Rachael's Law [SPSC]* Available online at http://www.flsenate.gov/session/index.cfm?Mode=Bills&SubMenu=1&BI_Mode=ViewBillInfo&BillNum=0604 or <http://www.flsenate.gov/data/session/2009/Senate/bills/billtext/pdf/s0604c2.pdf> Published by The Florida Senate.

FDLE (2009) *Guidelines For Florida State And Local Law Enforcement Agencies In Dealing With Confidential Informants*. Available online at <http://www.fdle.state.fl.us/Content/getdoc/6bf82b10-54db-4c2a-b0e9-973f98901c9e/CIGuidelinesMARCH-final.aspx>

About ABM

ABM is an international provider of software solutions for covert policing and information management. It has been developing software solutions to manage covert intelligence in close consultation with law enforcement agencies over the last 15 years. For more information visit www.abm-uk.com or www.abmamerica.com or call the sales team on +44 (0)115 977 6999.

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² CNN.com (2006) *Police shooting of elderly woman leads to federal probe* [Online] Available at <http://edition.cnn.com/2006/US/11/27/atlanta.shooting/index.html> [Accessed 14 May 2009]