

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

February 1, 2013

Via Electronic Transmission

Michael E. Horowitz
Inspector General
U.S. Department of Justice
Office of the Inspector General
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Inspector General Horowitz:

Earlier this year, the Federal Bureau of Investigation (FBI) provided me with their Annual Report to Congress on Criminal Undercover Activity for Fiscal Year 2010. The report provides useful information on the scope and cost of the FBI's criminal undercover dealings but fails to address certain questions regarding the operations that generated revenue. For example:

1. For each undercover operation with funds remitted to FBI Headquarters, did FBI comply with PL 104-132, SEC. 815(d), and deposit those funds as miscellaneous receipts in the Treasury of the United States?¹ If so, how soon after each operation were the funds deposited?
2. For each undercover operation with funds generating interest, which financial institution(s) was (were) utilized to generate interest and how are the institutions chosen?
3. In only one undercover operation in 2010, Operation Periodic Table, was there a "refund remitted." What is the difference between the "refund remitted" and the other "unused funding returned?" For what was the \$73.22 refund remitted?
4. In Operation Double Sessions, after eight years of investigation and with over \$1.1 million dollars generated by the project, a total of \$330 unused project generated income (PGI) was returned to FBI Headquarters. This amount is

¹ PL 104-132, SEC. 815(d) makes permanent until repealed PL 102-395, SEC. 102(3) (Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993): "As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of paragraph (1), or under paragraph (2) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts."

significantly below the PGI remittance level of all other undercover operations detailed in this report. Can FBI provide an itemized budget for this operation?

The FBI is not the only agency generating proceeds from undercover operations. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Drug Enforcement Administration (DEA) also bring in a substantial amount of money each year in this way. Therefore, I request a review of proceeds generated from undercover operations for the past three fiscal years for the FBI, the ATF, and the DEA, with particular focus on those undercover operations generating revenue. I also request that you provide periodic updates on this review. I appreciate your office keeping my staff aware of your work and look forward to hearing updates on this important matter.

If you have any questions, please do not hesitate to contact James Donahue for the Committee on the Judiciary at (202) 224-5225. Thank you for your cooperation and attention to this letter.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

Attachments

ANNUAL REPORT TO CONGRESS
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL UNDERCOVER ACTIVITY



FISCAL YEAR 2010

TABLE OF CONTENTS

- I. The number of undercover investigative operations pending as of 09/30/2010, by program.
- II. The number of undercover investigative operations initiated during the period of 10/01/2009 through 09/30/2010, by program. (Fiscal Year 2010)
- III. The number of undercover investigative operations closed during the period of 10/01/2009 through 09/30/2010, by program. (Fiscal Year 2010)

Undercover Operations Defined

The Attorney General's Guidelines on FBI Undercover Operations define an **"Undercover Operation"** as an investigation involving a series of related undercover activities over a period of time by an undercover employee (UCE). For purposes of these Guidelines, a "series of related undercover activities" generally consists of more than five separate substantive contacts by a UCE with the individual(s) under investigation. However, undercover activity involving sensitive or fiscal circumstances constitutes an undercover operation regardless of the number of contacts involved. A contact is "substantive" if it is a communication with another person, whether by oral, written, wire, or electronic means, which includes information of investigative interest. Mere incidental contact, e.g., a conversation that establishes an agreed time and location for another meeting, is not a substantive contact within the meaning of these Guidelines.

"Undercover Activities" means any investigative activity involving the use of an assumed name or cover identity by an employee of the FBI or another federal, state, or local law enforcement organization working with the FBI.

Undercover operations (UCOs) are distinguished by the existence or absence of sensitive and/or fiscal circumstances. All incoming UCOs proposals are reviewed by the Undercover and Sensitive Operations Unit, Criminal Investigative Division (CID), for the existence of sensitive circumstances. The sensitive circumstances, per the Attorney General's Guidelines, are as follows: Public Corruption; Intrusion into Government; Privileged Relationships; Safety; Felonious Activity by a UCE; Money Laundering in Excess of \$1,000,000; Third-Party Liability; Terrorism Enterprise Investigations; and Proprietaries. Those UCOs which involve sensitive circumstances are presented to the Criminal Undercover Operations Review Committee (CUORC), a committee comprised of senior Department of Justice and FBI representatives. The CUORC distinctively reviews each UCO with sensitive circumstances and gives careful consideration to all sensitive circumstances and safety issues. All UCOs with sensitive circumstances are approved by the AD, CID, and/or the respective AD for non-CID UCOs after the recommendation by the CUORC.

I. The number of undercover investigative operations pending as of 09/30/2010, by program.

| Program | Pending UCOs |
|--|---------------------|
| Cyber Criminal Section (CyD) | 53 |
| Domestic Terrorism Strategic Operations Section (DT) | 11 |
| Financial Crimes Section (FCS) | 23 |
| Latin America Southwest Border Threat Section (LASWBT) | 21 |
| Transnational Organized Crime Threat Section (TOCTS) | 15 |
| Public Corruption/Civil Rights Section (PC/CRS) | 23 |
| Violent Criminal Threat Section (VCTS) | 4 |
| Total | 150 |

II. The number of undercover investigative operations initiated during the period of 10/01/2009 through 09/30/2010, by program.

| Program | UCOs Initiated |
|----------------|-----------------------|
| CyD | 53 |
| DT | 11 |
| FCS | 21 |
| LASWBTS | 20 |
| TOCTS | 13 |
| PC/CRS | 19 |
| VCTS | 4 |
| Total | 141 |

III. The number of undercover investigative operations closed* during the period of 10/01/2009 through 09/30/2010, by program.

| Program | UCOs Closed |
|----------------|--------------------|
| CyD | 5 |
| DT | 9 |
| FCS | 15 |
| LASWBTS | 11 |
| TOCTS | 8 |
| PC/CRS | 7 |
| VCTS | 1 |
| Total | 56 |

The statistical information listed above in tables I, II, and III reflect numbers tabulated for fiscal year 2010.

*For the purposes of this report, a "closed" undercover investigative operation as defined in Public Law (PL) 102-395, paragraph 6, subsection (A), is as follows:

the earliest point in time at which -

- (i) all criminal proceedings (other than appeals) are concluded, or
- (ii) covert activities are concluded, whichever occurs later.

Per PL 102-395, paragraph 5, subsection (B)(iii), with respect to each such closed undercover operations, the results obtained.

The results for the 45 closed UCOs which did not have sensitive circumstances as defined in the Attorney General's Guidelines on FBI Undercover Operations:

- 58 Indictments
- Seven (7) Informations
- 39 Complaints
- 75 Arrests
- 73 Convictions
- 72 Sentences
- Two (2) Dismissals

With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on FBI Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to-

- (I) the results,
- (II) any civil claims, and
- (III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

The attached report of the 11 closed UCOs which involved any of the sensitive circumstances specified in the Attorney General's Guidelines on FBI Undercover Operations includes the **Congressional Financial Report** prepared and provided by the Inspection Division's Audit Unit (INSD AU) as required by PL 102-395 paragraph 5, subsection A. PL 102-395 paragraph 5, subsection A states the FBI shall conduct a detailed financial audit of each undercover investigative operation closed during the fiscal year. For the purposes of the **Congressional Financial Report**, PL 102-395 paragraph 6, subsection C, defined the term "undercover investigative operation" and "undercover operation" as any undercover investigation of the FBI-

- (i) in which
 - (I) the gross receipts (excluding interest earned) exceed \$50,000 or
 - (II) expenditures (other than expenditures for salaries of employees) exceed \$150,000, and
- (ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code.

CASE SUMMARIES/FUNDING DETAILS
CONGRESSIONAL FINANCIAL REPORT

1. Name: Double Sessions
 Field office: Boston
 UCO Initiated: 06/06/2001
 UCO Terminated: 11/12/2009

Description detail(s): The operation targeted the New England La Cosa Nostra's (NELCN) influence of the Laborers International Union of North America (LIUNA), the Rhode Island local of LIUNA and their interactions with public officials.

A. Results:

- Nine (9) Indictments
- One (1) Information
- Ten (10) Arrests
- Six (6) Title IIIs
- Ten (10) Federal convictions
- Ten (10) Federal sentences
- Civil sanction for union officials

A1. Congressional Financial Report:

The accompanying Statement of Funding and Expenditures for the Double Sessions UCO was prepared for the purpose of complying with the United States Department of Justice Appropriation Authorization Act, Fiscal Year 2003, as enacted by Public Law 102-395. The financial information presented in these statements is a compilation of the financial information for the entire period of the UCO. Those statements were audited quarterly by the internal auditors within the Boston Division.

STATEMENT OF FUNDING AND EXPENDITURES

Sources of Cash:

| | | |
|--------------------------------|--------------------|-----------------------|
| Funds Provided by FBI | \$459,468.27 | |
| Project Generated Income (PGI) | \$1,137,806.53 | |
| Interest Income | <u>\$15,191.33</u> | |
| Total Sources of Cash | | <u>\$1,612,466.33</u> |

Operational Costs:

| | | |
|---|--------------------|-----------------------|
| Total Operational Costs | | \$1,596,944.80 |
| Unused PGI Remitted | \$330.00 | |
| Interest Income Remitted | <u>\$15,191.53</u> | |
| Total Remittances to FBIHQ | | <u>\$15,521.53</u> |
| Total Operational Costs and Funds Remitted to FBIHQ | | <u>\$1,612,466.33</u> |

B. Civil Claims: None

C. Sensitive Circumstances: Public Corruption

2. Name: Soft Tissue
Field office: Chicago
Opened: 12/23/1997
UCO Terminated: 05/25/2010

Description detail(s): This UCO targeted individuals involved in staging automobile accidents in order to defraud insurance companies.

A. Results:

- 187 Indictments
- 187 Arrests
- 156 Convictions
- 156 Sentences
- Ten (10) Indictments dismissed
- Nineteen (19) Pre-trial diversions
- One (1) Death
- One (1) Acquittal

A1. Congressional Financial Report:

The accompanying Statement of Funding and Expenditures for the Soft Tissue UCO was prepared for the purpose of complying with the United States Department of Justice Appropriation Authorization Act, Fiscal Year 2003, as enacted by Public Law 102-395. The financial information presented in these statements is a compilation of the financial information for the entire period of the UCO. Those statements were audited quarterly by the internal auditors within the Chicago Division.

STATEMENT OF FUNDING AND EXPENDITURES

Sources of Cash:

| | | |
|--------------------------------|---------------------|---------------------|
| Funds Provided by FBI | \$354,875.00 | |
| Project Generated Income (PGI) | <u>\$380,194.46</u> | |
| Total Sources of Cash | | <u>\$735,069.46</u> |

Operational Costs:

| | | |
|---|---------------------|---------------------|
| Total Operational Costs | | \$603,021.74 |
| Unused PGI Remitted | <u>\$132,047.72</u> | |
| Total Remittance to FBIHQ | | <u>\$132,047.72</u> |
| Total Operational Costs and Funds Remitted to FBIHQ | | <u>\$735,069.46</u> |

B. Civil Claims: None

C. Sensitive Circumstances: Proprietary Business; and Privileged Relationship(s).

3. Name: Paesan Blues
 Field office: Miami
 Opened: 09/24/2009
 UCO Terminated: 04/02/2010

Description detail(s): This UCO targeted an associate of the Sicilian mafia who led an organized criminal enterprise involved in drug trafficking, money laundering, telemarketing fraud and weapons trafficking.

A. Results:

- Two (2) Federal Indictments
- Two (2) Arrests
- Two (2) convictions
- Two (2) sentences

A1. Congressional Financial Report:

The Paesan Blues UCO totaled \$119,149.45 in expenditures and did not have any project generated income. Although the case was exempted from section 3302 of Title 31, this case did not qualify for a Congressional Financial Report due to it not exceeding \$150,000 in expenditures or \$50,000 in project generated income. This operation was audited quarterly by the internal auditors within the Miami Division.

B. Civil Claims: None

C. Sensitive Circumstances: Due to the sensitive nature of the targets in this UCO, SAC Miami requested FBIHQ and CUORC oversight of this investigation.

4. Name: Broken Boards
Field office: Newark
Opened: 11/20/2006
UCO Terminated: 02/02/2010

Description detail(s): This UCO investigated New Jersey's State school construction program fraud.

A. Results:

- Twelve (12) Federal complaints
- Nine (9) Federal Indictments
- Nine (9) Federal Informations
- Fifteen (15) Federal convictions
- One (1) Local indictment
- One (1) Local conviction
- Recoveries: \$11,400
- Fines: \$83,000

A1. Congressional Financial Report:

The accompanying Statement of Funding and Expenditures for the Broken Boards UCO was prepared for the purpose of complying with the United States Department of Justice Appropriation Authorization Act, Fiscal Year 2003, as enacted by Public Law 102-395. The financial information presented in these statements is a compilation of the financial information for the entire period of the UCO. Those statements were audited quarterly by the internal auditors within the Newark Division.

STATEMENT OF FUNDING AND EXPENDITURES

Sources of Cash:

| | | |
|-----------------------|---------------------|---------------------|
| Funds Provided by FBI | <u>\$671,979.34</u> | |
| Total Sources of Cash | | <u>\$671,979.34</u> |

Operational Costs:

| | | |
|---|---------------------|---------------------|
| Total Operational Costs | | \$567,121.18 |
| Unused Funding Returned | <u>\$104,858.16</u> | |
| Total Remittance to FBIHQ | | <u>\$104,858.16</u> |
| Total Operational Costs and Funds Remitted to FBIHQ | | <u>\$671,979.34</u> |

Total Operational Costs and Funds Remitted to FBIHQ \$671,979.34

B. Civil Claims: None

C. Sensitive Circumstances: Public Corruption.

5. Name: White Eagle
 Field office: New Haven
 Opened: 06/16/2009
 UCO Terminated: 12/16/2009

Description detail(s): This UCO was initiated to determine the location of a top-ten fugitive.

A. Results: None

A1. Congressional Financial Report:

The White Eagle UCO had no expenditures and did not have any project generated income. Although the case was exempted from section 3302 of Title 31, this case did not qualify for a Congressional Financial Report due to it not exceeding \$150,000 in expenditures or \$50,000 in project generated income. This operation was audited quarterly by the internal auditors within the New Haven Division.

B. Civil Claims: None

C. Sensitive Circumstances: Terrorism Enterprise.

6. Name: Island Dance
Field office: New York
Opened: 02/17/2005
UCO Terminated: 08/06/2010

Description detail(s): This UCO was initiated to target the criminal activities of the LCN's crew. The subjects and their associates were involved in traditional LCN crimes such as gambling, extortion, extortionate credit transactions and money laundering.

A. Results:

- Fifteen (15) Federal Complaints
- Fifteen (15) Federal Indictments
- Fifteen (15) Federal Arrests
- Twelve (12) Federal Convictions
- Three (3) Indictments dismissed
- Twelve (12) Federal sentences

A1. Congressional Financial Report:

The accompanying Statement of Funding and Expenditures for the Island Dance UCO was prepared for the purpose of complying with the United States Department of Justice Appropriation Authorization Act, Fiscal Year 2003, as enacted by Public Law 102-395. The financial information presented in these statements is a compilation of the financial information for the entire period of the UCO. Those statements were audited quarterly by the internal auditors within the New York Division.

STATEMENT OF FUNDING AND EXPENDITURES

Sources of Cash:

| | | |
|--------------------------|-----------------|---------------------|
| Funds Provided by FBI | \$182,800.00 | |
| Project Generated Income | \$69,700.00 | |
| Interest Income | <u>\$878.56</u> | |
| Total Sources of Cash | | <u>\$253,378.56</u> |

Operational Costs:

| | | |
|---|-----------------|---------------------|
| Total Operational Costs | | \$220,890.26 |
| Unused Funding Returned | \$31,609.74 | |
| Interest Income Remitted | <u>\$878.56</u> | |
| Total Remittance to FBIHQ | | <u>\$32,488.30</u> |
| Total Operational Costs and Funds Remitted to FBIHQ | | <u>\$253,378.56</u> |

B. Civil Claims: None

C. Sensitive Circumstances: Public Corruption; and money laundering.

7. Name: Periodic Table
Field office: Portland
Opened: 03/02/2004
UCO Terminated: 06/18/2010

Description detail(s): This UCO targeted subjects of Animal Rights Group's arsons that occurred between 1996 and 2001, in the western United States (U.S.).

A. Results:

- One (1) Positive Intelligence dissemination
- One (1) DT liaison contact (state and local)
- One (1) DI-domain/strategic identified trend/threat
- One (1) Developed operational plan
- One (1) Operationally-controlled meeting
- One (1) Intelligence Report

A1. Congressional Financial Report:

The accompanying Statement of Funding and Expenditures for the Periodic Table UCO was prepared for the purpose of complying with the United States Department of Justice Appropriation Authorization Act, Fiscal Year 2003, as enacted by Public Law 102-395. The financial information presented in these statements is a compilation of the financial information for the entire period of the UCO. Those statements were audited quarterly by the internal auditors within the Portland Division.

STATEMENT OF FUNDING AND EXPENDITURES

Sources of Cash:

| | | |
|-----------------------|--------------|---------------------|
| Funds Provided by FBI | \$558,937.71 | |
| Total Sources of Cash | | <u>\$558,937.71</u> |

Operational Costs:

| | | |
|---|----------------|---------------------|
| Total Operational Costs | | \$535,712.41 |
| Unused Funding Returned | \$23,152.08 | |
| Refund Remitted | <u>\$73.22</u> | |
| Total Remittances to FBIHQ | | <u>\$23,225.30</u> |
| Total Operational Costs and Funds Remitted to FBIHQ | | <u>\$558,937.71</u> |

B. Civil Claims: None

C. Sensitive Circumstances: Terrorism Enterprise and Third-Party Liability.

8. Name: Curb Appeal
 Field office: St. Louis
 Opened: 11/04/2008
 UCO Terminated: 12/16/2009

Description detail(s): This UCO was initiated to identify and gather evidence against mortgage brokers, loan officers, appraisers and others involved in the falsification of mortgage loan applications, as well as to develop evidence against co-conspirators.

A. Results: None

A1. Congressional Financial Report:

The Curb Appeal UCO totaled \$2,589.11 in expenditures and did not have any project generated income. Although the case was exempted from section 3302 of Title 31, this case did not qualify for a Congressional Financial Report due to it not exceeding \$150,000 in expenditures or \$50,000 in project generated income. This operation was audited quarterly by the internal auditors within the St. Louis Division.

B. Civil Claims: None

C. Sensitive Circumstances: Third-Party Liability

9. Name: Pure Heart
Field office: St. Louis
Opened: 04/14/2004
UCO Terminated: 06/18/2010

Description detail(s): This UCO was initiated to gather intelligence on the illegal activities of dissident groups movement throughout the U.S., and to disrupt any planned acts of violence and/or prevent any domestic terrorism events.

A. Results:

- Fourteen (14) Intelligence Report disseminations
- Penetrated groups/cells by Source: 5
- Suspected terrorist designated: 1
- Prevented/interdicted terrorist act(s): 1

A1. Congressional Financial Report:

The accompanying Statement of Funding and Expenditures for the Pure Heart UCO was prepared for the purpose of complying with the United States Department of Justice Appropriation Authorization Act, Fiscal Year 2003, as enacted by Public Law 102-395. The financial information presented in these statements is a compilation of the financial information for the entire period of the UCO. Those statements were audited quarterly by the internal auditors within the St. Louis Division.

STATEMENT OF FUNDING AND EXPENDITURES

Sources of Cash:

| | | |
|-----------------------|--------------|---------------------|
| Funds Provided by FBI | \$362,705.00 | |
| Total Sources of Cash | | <u>\$362,705.00</u> |

Operational Costs:

| | | |
|---|-------------|---------------------|
| Total Operational Costs | | \$342,787.86 |
| Unused Funding Returned | \$19,917.14 | |
| Total Remittance to FBIHQ | | <u>\$19,917.14</u> |
| Total Operational Costs and Funds Remitted to FBIHQ | | <u>\$362,705.00</u> |

B. Civil Claims: None

C. Sensitive Circumstances: Terrorism Enterprise.

10. Name: Green Traketon
Field office: San Juan
Opened: 03/17/2004
UCO Terminated: 07/10/2010

Description detail(s): This UCO targeted cells of Colombian drug traffickers and money launderers that operated in the U.S. and Puerto Rico.

A. Results:

- Thirty-one (31) subjects indicted and arrested
- Twenty-six (26) subjects convicted and sentenced
- Five (5) subjects released; case dismissals

A1. Congressional Financial Report:

The accompanying Statement of Funding and Expenditures for the Green Traketon UCO was prepared for the purpose of complying with the United States Department of Justice Appropriation Authorization Act, Fiscal Year 2003, as enacted by Public Law 102-395. The financial information presented in these statements is a compilation of the financial information for the entire period of the UCO. Those statements were audited quarterly by the internal auditors within the San Juan Division.

STATEMENT OF FUNDING AND EXPENDITURES

Sources of Cash:

| | | |
|--------------------------|---------------------|---------------------|
| Project Generated Income | <u>\$272,588.59</u> | |
| Total Sources of Cash | | <u>\$272,588.59</u> |

Operational Costs:

| | | |
|-------------------------|--|---------------------|
| Total Operational Costs | | <u>\$272,588.59</u> |
|-------------------------|--|---------------------|

B. Civil Claims: None

C. Sensitive Circumstances: Money Laundering.

11. Name: Confederate Idol
Field office: Springfield
Opened: 06/25/2008
UCO Terminated: 09/07/2010

Description detail(s): This UCO was initiated to gather intelligence on the illegal activities of dissident groups movement throughout the U.S., and to disrupt any planned acts of violence and/or prevent any domestic terrorism events.

A. Results:

- Sixty-four (64) Intelligence disseminations
- Twenty-three (23) reported cases
- Forty-six (46) Intelligence requirements reported
- Five (5) Intelligence Reports produced
- Three (3) lone offenders identified
- Four (4) cases initiated

A1. Congressional Financial Report:

The Confederate Idol UCO totaled \$75,422.49 in expenditures and did not have any project generated income. Although the case was exempted from section 3302 of Title 31, this case did not qualify for a Congressional Financial Report due to it not exceeding \$150,000 in expenditures or \$50,000 in project generated income. This operation was audited quarterly by the internal auditors within the Springfield Division.

B. Civil Claims: None

C. Sensitive Circumstances: Terrorism Enterprise.