



**BOARD OF INQUIRY ON ACTIVITIES OF THE
RCMP RELATED TO ALLEGATIONS
MADE IN THE SENATE OF CANADA**

RESEARCH STUDIES: 1991

Police Informants - Brodeur

Police Use of Paid Informers - Schiffer

The Limits of Police Provocation in Canada - Stober

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D. Prosecutorial control. As we previously said, the prosecutor can play a decisive part in allowing the arrangements that will grant court benefits to potential informants. In Canada, the criminal law does not define the power of the prosecutor in this regard. However, according to Canadian jurisprudence, it would appear that the power of granting full immunity from prosecution rests with the Crown attorney.¹²⁷ Hence, when granting immunity from prosecution is considered to be best or the only way to recruit an informant, the prosecutor is in a position to exercise a great deal of control on the content of the agreement to be struck between the police and its future human source.

¹²⁷

Stenning, P.C. (1986). *Appearing for the Crown: a Legal and Historical Review of Criminal Prosecutorial Authority in Canada*. Montreal: Brown Legal Publications Inc.

D. Prosecutorial control. When we described the court benefits that could be granted to a potential informant, we were not only referring to immunity from prosecution. All or some charges made against a defendant can be dropped or lessened and/or milder sentences can be imposed. Actually, a plea negotiation can be complex and even the facts of the case can be negotiated. Hence, when legal doctrine asserts that the power to grant full immunity rests with the Crown attorney, it is far from covering the variety of the arrangements that can be made. Furthermore, we are justified to believe, on the basis of the literature, that the police plays a major role in making informal deals, which are unsupervised by Crown attorneys. Prosecutors may attempt to increase the control that they believe to be entitled to exercise. Such attempts may have felicitous results. They could also trigger a lasting conflict between the police and the prosecutors. The professional culture of the police makes them weary of procedure and red tape. The professional culture of lawyers, on the other hand, favors the development of complex procedures, which may generate impressive stacks of paper forms. There is a need for both rigorousness and flexibility in regulating the use of informants. Let us hope that future attempts at reform will strike a balance between these competing needs.
