

# Jailhouse Informant Law Has No Tracking

If passed, the In-Custody Informants Bill will require state prosecutors to provide a history of instances when police and prosecutors have made any kind of agreement with an inmate to testify.

By Bruce Gerstman and Daniel Horowitz

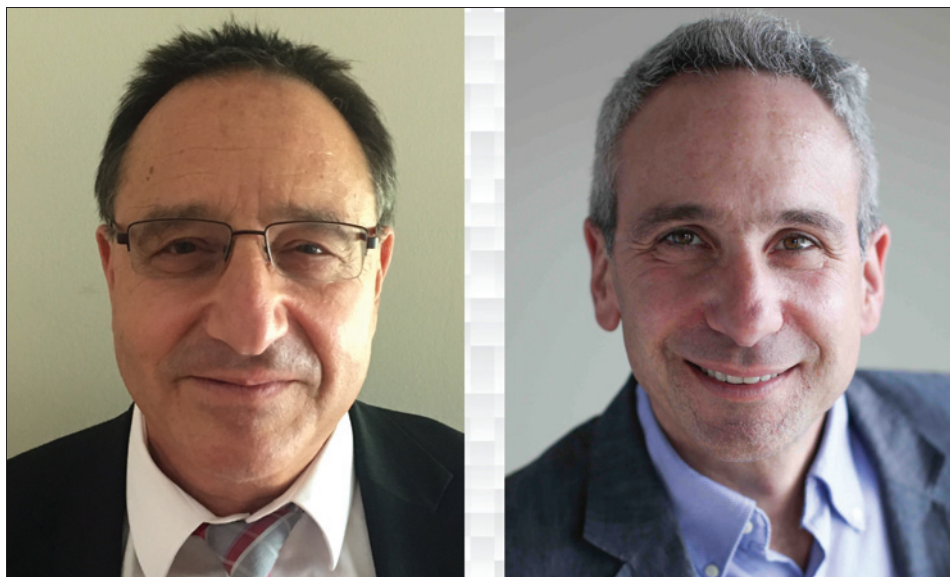
**W**hen Charles Waldo went to trial in Contra Costa County in March facing fraud and embezzlement charges, prosecutors added a twist.

Three jailhouse informants came forward at the last minute to say Waldo solicited them to coordinate the murders of three witnesses.

Waldo and his attorney, Chris Martin, scrambled to make sense of these witnesses. It turned out that they were “professional snitches” and had acted as informants in previous cases. The prosecution gave scant information about the informants to the defense team, who were fortunate to learn about them on their own. Martin said he learned that law enforcement had threatened one with prosecution if he did not testify against Waldo. The other was granted probation on a separate case in exchange for testimony.

Ultimately, the jury convicted Waldo on various fraud charges, but didn’t believe the informants and acquitted him of the soliciting murder charge.

Waldo’s case is an example of why California Assembly Member Reginald Byron Jones-Sawyer introduced the In-Custody Informants Bill, AB 359, which if passed will require state prosecutors to provide within 30 days of trial a full history of instances when police and prosecutors have made any kind of agreement with an inmate to testify. It will also require counties to maintain searchable databases of informants so the defense can identify inmates who have benefitted in the past from being an informant.



Left to right: Daniel A. Horowitz and Bruce Gerstman

A professional snitch often gets money and a “Get Out of Jail Free” card in exchange for information or testimony implicating someone else. When released, the person often continues to commit crimes, knowing that if caught, he can buy his way out of trouble with information. On the streets and in the jails, these professional snitches gather and store information for another time. If times are tough and information is missing, they will often invent it.

But the databases cover only local informants. Defense attorneys still won’t have the ability to search whether an informant testified in other jurisdictions. According to the counsel for the Assembly Committee on Public Safety, once the law is implemented, prosecutors will enter information about the informant into a county database that will be disconnected from other counties. A defense attorney will see instances when an informant cooperated with law enforcement in, for instance, Contra Costa County, but not whether the same witness got a deal nearby in San Francisco County, or further away in Los Angeles County.

The database also will not cover information provided “on the street” in exchange for police officers or prosecutors declining to make arrests or file charges.

Unfortunately, this leaves out a systematic approach to the problem and even the most well-intentioned prosecutors will not be able to provide all of the background information about an informant because nobody will have a window into the statewide records.

The bill mandates district attorney offices to begin entering informant data starting when the law goes into effect, so prior instances of informants working with law enforcement will not be included, according to the public safety committee counsel.

With all of this in mind, Jones-Sawyer’s bill will help track criminals charged with breaking laws in a specific county, but not when the same criminals have moved throughout California.