WHAT IS SNITCHING?

• “Snitch” is a slang term for a criminal informant, and “snitching” occurs when police or prosecutors offer a deal to criminal suspects in exchange for information or cooperation.1 “Snitching” often occurs in the context of plea bargaining, and is enabled by determine sentencing regimes and mandatory minimum sentencing, which make it extremely difficult for defendants to avoid a severe prison term unless they can offer assistance in investigating or prosecuting a case.1

• A defendant who agrees to become a “snitch” may wear a wire, have a conversation with another suspect, or collect physical evidence; they may also agree to testify in court against others. In exchange for this cooperation, a prosecutor can agree not to bring or to dismiss certain charges, recommend a lower sentence or sentence range to the sentencing judge,2 or agree that a specific sentence or sentencing range is appropriate in the defendant’s case.3

• Thousands of criminal informants receive more lenient sentences or avoid prosecution by providing information or cooperation.1 “Snitching” often occurs in the context of plea bargaining, and is enabled by determine sentencing regimes and mandatory minimum sentencing, which make it extremely difficult for defendants to avoid a severe prison term unless they can offer assistance in investigating or prosecuting a case.1

HOW IT WORKS

• Some criminal informants agree to assist the government as part of a formal cooperation agreement.4 Typically, this type of agreement require an informant to be available for testimony and to provide truthful and complete information to law enforcement officials at all times.5 It may also require the informant to waive his right to counsel during meetings with the government, as well as his right against self-incrimination. This allows the government to use the informant’s testimony against them but the FBI may never authorize a crime of violence.19

CONSEQUENCES AND CRITICISMS

• There is growing concern that law enforcement officials manipulate low-level offenders—many of them being low-income, minority youth—into becoming informants by threatening them with exaggerated estimates of the sentences they could face if they don’t cooperate. Also, much of the young informants’ cooperation involves circumstances far more serious than the charges they are facing.20

• Some criminal informants continue to commit crimes while working with law enforcement officials. One of the most notorious examples of informant abuse arose in the case of Stephen Flemmi and Whitey Bulger, two Irish mob hit men who for 20 years committed murder and engaged in kidnapping, racketeering, and other serious crimes while they worked for the FBI.20 Although the Department of Justice’s current guidelines are intended to better regulate and track the use of criminal informants,21 recent evidence of mishandling and corruption suggests that serious problems persist.21

• Critics also argue that informants can be notoriously untrustworthy.22 In a case that led to an ACLU lawsuit, Kelly v. Paschall, an informant in Hearne, Texas, provided false information to a federally-funded drug task force that led to the wrongful arrest of almost 15% of the town’s young, black male population on felony cocaine charges.22 In a 2004 study, Northwestern University Law School estimated that false testimony from criminal informants accounted for over 45% of all wrongful capital convictions, making snitches the leading cause of wrongful convictions in U.S. death penalty cases.22

2 See, e.g., The Sentencing Reform Act of 1984, 18 U.S.C. §§ 3553(a), 3582(c)(1)(B), 3582(c)(1)(C), 3553(c)
4 F.R.Crim.Pro. Rule 11(c)(1)(A)
5 Id. at 11(c)(1)(B).
6 Id. at 11(c)(1)(B).
9 See id.
10 See G.S.G. § 147-1; N.C.G.S. §§ 147-1.
12 See G.S.G. § 147-1; N.C.G.S. §§ 147-1.
15 Id.
16 Id.
17 Id.
18 Id.
19 Id.
20 Stillman, supra note 14.
21 20 Stillman, supra note 14.