

UNDERCOVER OPERATIONS AND PERSUASION

RANDOLPH D. HICKS II

Written for law enforcement officers and prospective law enforcement officers who anticipate conducting undercover investigations.

CHARLES C THOMAS • PUBLISHER

Springfield • Illinois • U.S.A.

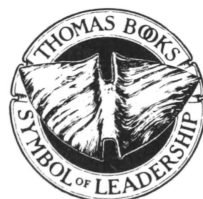


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TO VIOLA DAVIS –

*ONE WHO HAS UNSELFISHLY GIVEN SO MUCH TO
OTHERS AND EXPECTED SO LITTLE IN RETURN –
THIS BOOK IS RESPECTFULLY DEDICATED*

PREFACE

UNDERCOVER work is a specialization within the effort referred to as law enforcement. It is specialized in terms of both function and requirements. What is often otherwise impossible in law enforcement can be achieved through undercover work. Likewise, there are law enforcement functions which cannot be effectively accomplished through undercover operations. Obvious examples are uniformed patrol, traffic enforcement, juvenile work and others. Inasmuch as undercover work is a specialization, there are specific skills required of the personnel involved, though there is overlapping. Each law enforcement function requires – even demands – certain abilities because of the very nature of the tasks which these specialized functions seek to accomplish. This book seeks to furnish the law enforcement officer or prospective law enforcement officer with a basis for understanding the most crucial skill needed in conducting undercover investigations; it is the ability to persuade. Knowledge and proficiency or skill in persuasion are required in all phases of law enforcement. Because of the nature of the work, however, in undercover operations this understanding and skill is absolutely essential. The officer's use of it will determine not only his effectiveness, but as will be seen later, can also determine whether he lives or dies.

Consequently, the discussion which appears on the following pages will be based heavily upon the actual experiences of this writer and his fellow officers while performing undercover work over a period of several years. Many incidents which have been described in this book appear in considerable detail because of the necessity of making it perfectly clear how persuasion must be used. It is hoped that from these incidents the reader will be able to avoid experiencing some of the pitfalls and dangers encountered by those who have passed this way before. The incidents

themselves are described as they happened; however, the writer has left out certain material which is not necessary for the purpose of illustration. Also the reader will notice that for obvious reasons the true identity of particular individuals, together with the names of the particular law enforcement agencies involved in specific incidents, have not been revealed. Unfortunately, for the most part this has resulted in the writer not being able to give proper credit where it is certainly due.

It should be stated that no small amount of gratitude is owed by this writer to the California Bureau of Narcotic Enforcement and the Department of Alcoholic Beverage Control together with the various police departments, sheriff's offices, and federal law enforcement agencies with which he has worked.

RANDOLPH D. HICKS II

FOREWORD

UNDERCOVER officers play an essential and frequently overlooked role in law enforcement. Their activities together with those of uniformed officers and plain clothes officers protect the individual and the society of which the law enforcement agency and the individual are a part. For effective enforcement of the law, all three approaches are needed, and are, in fact, inseparable.

UNDERCOVER OPERATIONS AND PERSUASION by Randolph D. Hicks, II, is a unique volume in that the author “talks” with the reader about *communication* as a technique. The principles and illustrative materials are presented in a clear and orderly manner. To my knowledge this is the first volume to analyze and to use the concept of communication as it applies to police undercover work.

Because of the nature of his work, the role of the undercover agent does not lend itself to reporting in any of the media. Concealment of the officer’s purpose and official capacity is needed if he is seeking to obtain information that cannot be gathered in any other way. *UNDERCOVER OPERATIONS AND PERSUASION* teaches and demonstrates how an undercover agent can obtain evidence effectively and safely without using his official capacity. Three rules are presented in detail, with examples, as guides to effective undercover work: (1) analysis of the suspect, (2) comparison of the officer’s goals with the goals of the suspect, and, by means of verbal communication and actions, (3) joinder of the suspect’s goals with the goals of the officer. Through persuasion, by words and deeds, the officer must convince the suspect he can deal safely with the officer; avoid furnishing the suspect with an opportunity to make the officer the victim; and “stack the deck” in the officer’s favor, all at the same time.

The cases reported throughout the book illustrate vividly and unforgettably that undercover work is a game of wits between the officer and the suspect, a game in which the stakes may be life itself.

WILLIAM DIENSTEIN

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**UNDERCOVER
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AND PERSUASION**

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CHAPTER I

**INTRODUCTION: UNDERCOVER WORK
AS AN APPROACH WITHIN THE
FIELD OF LAW ENFORCEMENT**

ESSENTIALLY, there are three basic approaches which are utilized by law enforcement. The first is that with which we are most familiar — uniformed enforcement. With this approach there is little attempt to conceal the law enforcement status or purpose of the personnel involved. Uniforms are worn and clearly marked vehicles are used for such functions as traffic and patrol. The advantages of this method are obvious. First, some crime is prevented simply by the clear presence of officers. Few would intentionally make an illegal U-turn with a marked highway patrol vehicle in the next lane. Nor have there been many who committed burglaries while they knew a patrol unit was cruising the neighborhood. Second, the obvious status of uniformed officers aids them when they have to take action. It is much easier to direct traffic at an accident scene in a police uniform than it is in a pair of levis and a T-shirt. Stepping into a fist fight in that same pair of levis would not only render the row more difficult to stop by the officer in question, but would also greatly increase the chances of his having to pay a visit to his dentist in the immediate future. The uniformed officer would be able to handle the disturbance much more efficiently simply as a result of his dress. But there are also some disadvantages encountered with the uniformed approach. Much law enforcement involves information gathering. Suppose that it is necessary to visit a local bank to check a suspect's signature or ask some questions regarding the description of a check passer. The appearance of a uniformed officer in the bank will disrupt business as employees and customers alike immediately become preoccupied with fearful

speculation on the officer's purpose. Suppose it is necessary to visit an individual's home to inquire into the whereabouts of a suspect or relative. The appearance of the marked patrol unit in front of the house will trigger phone calls and gossip sessions that may last for days. Often the neighbors are so overcome by their curiosity and imagination that they will telephone the department and demand to know what is going on. This serves to impede police functions and to further frustrate a desk sergeant who is already wishing he had a job elsewhere!

So there is a second approach – the plainclothes method. There is no attempt to totally conceal the officer's identity or official capacity. The officers usually wear suits or sport clothes and the vehicles used are official in appearance but without markings. The purpose is to enable the officers to work efficiently without being hampered by the disadvantages of the uniformed approach. Also the plainclothes officer can still function efficiently when he does have to make an arrest or take similar action. His identification coupled with his dress, his vehicle, and his manner are enough to convince the citizenry that he is an officer. Unfortunately, there are many instances where it is essential that information or evidence be obtained which would never knowingly be disclosed to a law enforcement officer. Thus, there is needed a third approach which can be used to gather this evidence.

The third method used by law enforcement is the undercover method. Here, concealment of the officer's purpose and official capacity is absolutely essential. All that is practical is done to effect this concealment. This is because the information and evidence which is obtained through the undercover investigation can be obtained in no other way than through such concealment. We might imagine that the corner bartender is selling heroin. Obviously this man is not going to sell to a uniformed officer or a plainclothes officer; nor is he going to divulge to them any information concerning his activities. Evidence can only be obtained by someone whom he believes he can trust to keep his activities secret. This may be because he feels the person is not in sympathy with law and order or because he believes the man is a fellow law violator. The known police officer fits neither

description. It is obvious that there is a tremendous advantage in the undercover approach; however, there are also serious disadvantages which the undercover officer must overcome.

Central to the message which appears throughout these pages is the important observation that the police officer must always perform two tasks. He must do his job effectively and he must do it safely. The disadvantages of the undercover approach are in both areas. This book concerns itself with the methods of dealing with and overcoming these disadvantages.

The following example illustrates one such disadvantage. A uniformed officer on patrol notices a man who is standing in the dark doorway of a closed place of business. As he approaches he notices that the man bears some resemblance to a burglar wanted in an adjoining county. He asks the man for his identification. The man refuses. The officer then explains that as a police officer he has the duty under the present circumstances to request identification and if refused, to place the man under arrest. Regardless of whether the man then identifies himself or refuses and is arrested, the officer will learn his identity. For a comparison, imagine the undercover officer meeting an unknown man in a park for the purpose of discussing a later purchase of stolen jewelry from the man. It is important that he learn the suspect's identity as soon as possible. It is clear that at this point our undercover cannot very well identify himself as an officer and if necessary arrest the suspect as did his uniformed counterpart. In obtaining essential information and evidence, the undercover officer's official capacity is of little use to him at this stage. This is an illustration of a disadvantage of the undercover approach as well as the advantage of being able to obtain evidence. While working undercover is the only efficient way to obtain this evidence, it has the disadvantage of being far less efficient in terms of identifying the suspect. It will be shown later how to overcome this disadvantage. The following illustration exemplifies a disadvantage in terms of the officer's safety. Our officer is working in a bar undercover. He has been spending a good deal of money with the bartender in the hope that he will be invited to place an illegal off-track bet on a horse. Instead of attracting an offer from the bartender (who it turns out was the man who made the

anonymous complaint in the first place – on his boss!) the officer attracts someone else. One of the local thugs who frequents the establishment has selected our budding young undercover officer as a prime target for a strong-arm robbery. Again, the officer's official capacity is of little use to him. If he is experienced, he probably has figured out that something is in the wind and that he is in a tight spot. He is probably wishing that he were working in plain clothes, were in the bar for a somewhat different reason, and could solve the whole problem by either casually mentioning the police department in a voice audible to his newly-found friend, or by playing dumb and arresting him as he tipped his hand. Unfortunately he can do neither. Such instances are a constant threat to the officer doing undercover work because of the nature of the people with whom he associates.

Undercover officers, then, must obtain information and evidence which cannot be otherwise obtained. They have to do this effectively and safely while their official capacity is of little use. How is this to be done? The officer cannot threaten the suspect with arrest. The suspect cannot be bribed, beaten, or coerced. The officer cannot use his badge, uniform, sidearm, or nightstick. Nor can he obtain a search warrant, a subpoena, or issue the suspect a citation. He has only one tool upon which he can depend for his effectiveness and his safety. That tool is communication. Stated another way, it is the ability to persuade. The problem of the bartender selling heroin as was mentioned before is an excellent example of this. There is only one way that he is going to make a sale to an undercover officer. He is going to have to be talked into it! The officer is going to have to persuade him that he is safe to do business with. This will be done primarily through what the officer says. Similarly, if our officer gets into a troublesome situation like the one just described and is about to be robbed, he is going to have to talk his way out of the trouble. This will be accomplished mainly by what he says, either directly to the man himself or to others so that he might overhear. This almost total dependence upon communication and the power of persuasion is that which more than anything else separates the undercover approach from the other two. The individual officer's understanding and ability to deal effectively with what appears in

the following pages will therefore determine, more than anything else, his success.

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CHAPTER II

**FIRST PRINCIPLES FOR
EFFICIENCY AND SAFETY**

AN undercover officer is very much a man who stands alone. He is responsible to a large degree for whatever situation he finds himself in, good or bad. The chances are that either way he talked himself into it. His primary tool is communication, but it is a double-edged sword.

Scene: A four-door late model sedan on a deserted road, Green County, California

Time: 1:00 a.m.

Circumstances: The undercover officer has met the suspect for the purchase of one half-ounce of heroin. The suspect has been identified previously and is a known heroin addict. In addition to the purchase of the one half-ounce of heroin the officer has another objective. He is to arrange a subsequent transaction for as many ounces as possible. At such time the suspect is to be arrested and the large amount of contraband seized simultaneously.

Suspect: "You the guy that wants the half-ounce?"

Officer: "Right, \$250.00 huh?"

Suspect: "Yea, here it is. It's real good. I've been shooting it."

(The officer then handed \$250.00 to the suspect and took the heroin. He then noticed that it contained less than the amount

agreed upon.)

Officer: “Hey man! This is no half-ounce. What are you trying to pull?”

Suspect: “No, it’s all there, man.”

Officer: “Hell if it is! Now you promised me a half ounce for \$250.00. You can just hand about \$100.00 of that bread back!”

Suspect: “Look, dude. You paid two-fifty for a half. Now you got your half and I got my two-fifty. You got no beef coming.”

Officer: “I paid two-fifty for a quarter. You promised a half. Now I’m going to get it or a hundred back! And I’m not getting out of this car until I do!”

(The suspect then drew a knife which he had concealed under his shirt.)

Suspect: “Yea, you’re going to get it alright, dude! Now get out of the car right now!”

Our officer found himself standing alongside the road – minus the quarter-ounce, minus the \$100.00 it was worth, and more importantly, minus the opportunity for a later meeting and the seizure of what might have proven to have been thousands of dollars’ worth of heroin. (No, in a situation like this you do not pull your gun. You just get out of the car like the man says. Then you try to figure out what you did wrong!) Again, *communication is a double-edged sword*. The officer talked himself into this situation. Through unskillful use of communication he performed inefficiently and endangered his life. How could he have done better? He could have been persuasive instead of antagonistic.

To begin with, we already know what job we need to accomplish. So rule number one: ANALYZE YOUR SUSPECT.

What does *he* want? What are his goals and beliefs? Writing over three hundred years before the birth of Christ, Aristotle underscored this analysis as crucial to persuasion. So crucial did he consider it that he devoted an entire book of his *Rhetoric* to the problems of audience analysis. Nor have his views been invalidated over the 2000-plus years that have elapsed since the time of ancient Greece. There are, for example, a variety of presentations of common human goals which serve to give us an idea of our basic human motivation. These apply to the audience, whether it is a group of people listening to a campaign speech, a jury in a murder trial, or a suspected narcotics seller in a car on a deserted road.

| | |
|--------------|-----------------|
| Physical | Social |
| Food | Acceptance |
| Health | Friends |
| Safety | Love |
| Sex | |
| Practical | Ego |
| Finances | Achievement |
| Ownership | Aggression |
| Ways & Means | Beauty |
| | Creativity |
| | Dominance |
| | Excitement |
| | Humor |
| | Independence |
| | Recognition |
| | Self-expression |
| | Self-regard |

These are provided here for the purpose of illustrating areas to consider in analyzing various suspects. Some of them certainly apply in this instance.

First, we know that he is a heroin addict and has an unusual physical goal which can render him especially dangerous if it is not met. The fact that he is trying to cheat the officer out of some

heroin *may* indicate that he needs some of it for a fix. Second, we know that he has a practical goal – he is economically motivated and would be anxious to make a larger sale at a later date as he would stand to make a good deal of money. Third, we can assume that like all of us he has ego goals. Actually, the goals which motivate our suspect are readily discernible if we just think about them. So, think about them! Again, rule number one: **ANALYZE YOUR SUSPECT**. Make this a matter of habit. The next step is rule number two: **COMPARE YOUR GOALS WITH THOSE OF YOUR SUSPECT**. How are they compatible? How can you meet the suspect's goals and in so doing meet your own?

Two noted scholars in the area of communication and persuasion have made similar observations about how persuasion is achieved. Kenneth Burke observes that persuasion is achieved through a process which he refers to as “identification” wherein the speaker identifies his ideas with those of the audience, and the audience as a result of what he says identifies their ideas with those of the speaker. When these ideas or interests are joined together, a state which he refers to as “consubstantiality,” then persuasion takes place. Donald Bryant observes that persuasion is the process of adjusting people to ideas and ideas to people. This is precisely what you must do in the communication that takes place between yourself and the suspect. You must adjust the suspect to your ideas or goals. This is accomplished by adjusting your ideas or goals in such a manner that they appear acceptable to him. So, rule number three: **THROUGH COMMUNICATION, JOIN THE SUSPECT'S GOALS WITH YOUR OWN**. Both goals are thus met simultaneously. In meeting the suspect's, you meet your own. This could have been done in Green County:

Suspect: “You the guy that wants the half-ounce?”

Officer: “Right, \$250.00 huh?”

Suspect: “Yea, here it is. It's real good. I've been shooting it.”

(The officer then hands \$250.00 to the suspect and takes the heroin. He then notices that he has been shorted. He looks it over carefully.)

Officer: “Yea man, this looks like good quality stuff. If it works out ok I’ve got a deal set up to peddle about ten ounces of it to a guy, maybe more. Can you connect with me for that much of this same heroin?”

(The officer has said nothing yet about being shorted or cheated. Instead he has joined his interest in a large seizure in the future with the suspect’s interest or goal of making a good deal of money.)

Suspect: “Yea, that’s cool. It will take me a couple of days.”

Officer: “Great, very good. Now here is the trip. I need a good sharp connection like you. Someone that can come through regular, because I have some people that I can deal this to. You and I both stand to make some bread. You’re not dumb and neither am I. We both know this half-ounce is a little short. Maybe you needed some of it; it has happened to me, too. But you and I both know that when you pay for a half you’ve got to have a half to sell or you make nothing. Right? So it’s ok this time. From now on we both play it square. It’s the only way we can do business.”

Suspect: “Yea, right.”

The officer has further joined the suspect’s economic goal with his. He has opened the door to a further large transaction which appeals to the suspect. Also he has joined the suspect’s ego goal with his goal of wanting that large deal later. He has done this by referring to the suspect as “sharp” and as one who can deliver regularly. This makes the suspect feel important and puts him in a frame of mind to continue doing business with the officer. The suspect has another goal – it is his safety. He knows that no real heroin peddler would very often allow himself to be shorted because he could not stay in business if he did. If the officer allowed this to pass without making it clear that it would not happen again, the suspect would be afraid that he was dealing with an officer. The officer joins his interest in that later sale with the

suspect's wanting to feel safe. In short, he has done his job efficiently and safely. Rule number one: ANALYZE YOUR SUSPECT. Rule number two: COMPARE YOUR GOALS WITH THOSE OF THE SUSPECT. Rule number three: THROUGH COMMUNICATION, JOIN THE SUSPECT'S GOALS WITH YOUR OWN.

This next incident took place in southern California. It provides an excellent example of an experienced officer utilizing these principles to turn what could very easily have been disaster into success.

For several months the agencies involved had been investigating a heroin dealer of some magnitude. There was no question that he was a large supplier but as his notoriety was only exceeded by his cleverness, it had proven impossible to catch him in the act. He had learned from long experience to trust no one. Finally a break came when a man was located who knew the suspect from a job they had worked on together. Such opportunities are indeed rare. The man agreed to introduce the officer in question to the suspect as a friend. A buy for one ounce of heroin was set for early in the evening. It so happened that on this particular day the officer and his supervisor found it necessary to appear in court. Four o'clock found them walking down the courthouse steps congratulating each other on putting another undesirable behind bars when they ran face to face into our favorite suspect. Here they were, both dressed in suits and looking like a perfect stand-in for Joe Friday and Bill Gannon of *Dragnet*. The officer immediately tackled the situation head on:

Officer: "Hey man, how you doin'?" This here's my lawyer, Mr. Smith. Mr. Smith, this is Pete Anderson – a good friend of mine. Pete, if you ever need a lawyer, call him. He just got me out of a check beef and I was guilty as sin! (laughing)

(The two men shook hands.)

Officer: Pete, you don't happen to have that broad's phone number that I was going to get from you tonight, do you?"

Suspect: "It's in my car; I was on the way home."

Officer: "Well, why don't I get it from you now. It will save me a trip. I've got that money I owe you with me, too.

Mr. Smith, you saved my hide. I'll call you in a day or so about the rest of the fee. See you later and thanks.

The officer then walked to the suspect's car and purchased the heroin, not a block from the courthouse.

Lets us go back and examine this. Rule number one: ANALYZE YOUR AUDIENCE. What were the suspect's goals? There were two. He wanted to make money on the sale. He also wanted to be safe. Rule number two: COMPARE YOUR GOALS WITH THOSE OF THE SUSPECT. The officer wanted to make the buy and the suspect wanted to make the sale. These were already consistent or joined. Also, the suspect wanted to be safe. Rule number three: THROUGH COMMUNICATION, JOIN THE SUSPECT'S GOALS WITH YOUR OWN. It will be noticed that the officer immediately went to work on the suspect's safety goal to join it to his in making the buy; he met the suspect's goal and in so doing met his own by introducing his supervisor as his lawyer. This was just what the suspect wanted to hear. It explained the dress, who Smith was, and what they were doing in court. Also his remark about the check passing charge fit in and was again precisely what the suspect wanted to hear. It made him feel safe. It made the officer appear more to be a fellow "crook." When the officer referred to the "broad's" phone number it, too, was just what the suspect wanted to hear to feel safe. He immediately recognized that the officer meant the heroin and was obviously trying to keep his lawyer from knowing what they were talking about. This is exactly what a dealer or user of heroin would have done. By talking as if he were afraid, the officer made the suspect feel safe. Their interests are joined. Through skillful persuasion, the officer satisfied his goals by satisfying those of the suspect. In so doing he removed a dangerous man from the streets of southern California.

In the bay area of northern California another man was removed from the streets. The officer involved in this case was

about as inexperienced as they come. He had the sum total of five weeks on the job when he walked into a bar and ordered a beer. What happened in the next few minutes is still remembered and talked about although some five years have since elapsed.

Scene: A bar in the San Francisco Bay area, California.

Time: 1:30 p.m.

Participants: Undercover Officer
Suspect
Patron #1
Patron #2

Circumstances: The officer has happened into a bar for the purpose of conducting a general investigation into the activities taking place. He has no reason at this point to suspect anything illegal. Shortly after entering, he overhears a conversation between two of the patrons.

Patron #1: “No thanks. Yesterday I gave him a bet on the horse you said was a sure win and it came in last. Dead last! No more for me!”

Patron #2: “Well, that was just a bad day. It happens. I lost on that one, too. He’ll be in in a few minutes and I’m going to try again.”

(The officer then moved down next to the two patrons.)

Officer: “I’m Bill. Say, I could use a little of that action. But how about the guy that takes the bets. Is he ok? Man, I can’t take any heat.”

Patron #2: “Uh yea, he’s been making book for years. Keeps quiet and pays off when you win. Where you from?”