

PALM BEACH GARDENS POLICE DEPARTMENT

INFORMANTS

POLICY AND PROCEDURE 4.2.2.2

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CONTENTS

1. Establishing Informants
2. Utilization of Informants
3. Investigative Funds
4. Administrative Review
5. Glossary

PURPOSE: Compliance with State guidelines will enhance the goal of establishing more uniform practices throughout the Department and promote the safety of those involved in operations involving confidential informants (CI).

SCOPE: This policy and procedure applies to all members.

REVIEW RESPONSIBILITY: All Bureau Majors

POLICY: The utilization of confidential informants is lawful and often essential to the effectiveness of properly authorized criminal investigations or intelligence-gathering activities. At the same time, such utilization carries with it special challenges and risks that warrant prudent and responsible efforts. Due to the inherent dangers associated with the investigations of drug-related crimes and other serious offenses, or similar concerns in any situation in which the use of a confidential informant is anticipated, a priority of such operations is the safety of the persons involved, including the confidential informant, agency personnel, target offender(s), and the public. This Department's operational decisions and actions regarding the use of confidential informants must keep the safety of involved persons a top priority, and agency personnel should exercise the utmost care and judgment in order to minimize the risk of harm to all persons involved.

PROCEDURES

1. ESTABLISHING INFORMANTS

- a. Factors to be considered in assessing the suitability of a CI prior to the informant's utilization shall include, but are not limited to:
 - i. The informant's age and maturity;
 - ii. The risk the informant poses to adversely affect a present or potential investigation or prosecution;
 - iii. The effect upon agency efforts that the informant's cooperation becoming known in the community may have;
 - iv. Whether the person is a substance abuser, has a history of substance abuse, or is known by the lead investigator or officer to be involved in a court-supervised drug treatment program or drug-related pretrial intervention program;
 - v. The risk of physical harm that may occur to the person, his or her immediate family, or close associates as a result of providing information or assistance, or upon the person's assistance becoming known in the community;

- vi. Whether the person has shown any indication of emotional instability, unreliability, or of furnishing false information;
 - vii. The person's criminal history and/or prior criminal record;
 - viii. Whether the nature of the matter being investigated is such that the use of the informant is important to, or vital to, the success of the investigation.
- b. When an officer establishes an informant that he/she intends to use in current or future investigations, that officer shall complete a confidential source packet available in the Investigations Bureau.
- i. Officers completing a confidential source packet shall turn the appropriate form over to an investigations supervisor.
 - ii. The source packet shall be:
 - 1. Checked to see if a new informant is generated.
 - 2. Checked for reliability of the informant.
 - 3. Reviewed for current information on the status of informant, and
 - 4. Follow-up conducted by the supervisor in charge of the informant files.
 - iii. The confidential source packet shall be maintained and kept secured by the investigations supervisor and access to this file shall be rigidly controlled.
 - 1. A court order may be required.
 - iv. The Investigations Supervisor shall maintain a log (including date of access) of all persons having access to confidential source packets.
 - v. Content of the informant file will include:
 - 1. biographical and background information
 - 2. criminal history record, if any,
 - 3. code name of each informant
 - vi. The Investigations Supervisor having custody of CI packets, records and logs shall be responsible for purging those documents following command review and in accordance with General Records Schedule GS2 Item #199.
 - vii. Shredding shall be the prescribed method of disposal and will be completed by the Investigations Supervisor or designee.
 - 1. Under no circumstances should CI documents be passed on for bulk disposal or tasked to someone other than a CI user.
 - viii. Each informant shall be assigned a confidential code number which shall be known to the informant, the person who maintains the informant file, and the officer(s) who directs and controls the informant.
 - 1. The code number shall be assigned by the supervisor in charge of the informant files.
- c. Prior to an officer establishing an informant, he/she shall check if there are any pending prosecutions on the person.
- i. If there is no record found on the informant through use of NCIC, FCIC, or PALMS, the control officer shall attach the printout indicating "No Record Found".
 - ii. If there is a pending case(s) on the person, the control officer shall contact the assistant state attorney who is handling the case and the arresting agency.
 - 1. Only if the informant is providing or renders substantial assistance.
 - iii. The decision on whether to use the person as an informant shall be made after the control officer confers with the above agencies and his/her immediate supervisor.
 - iv. If there is a prosecution pending against the person and the decision is made to use the person as an informant, the officer shall advise the person that he/she can only advise the prosecutor or the court of the informant's cooperation and cannot make any other assurances without the approval of the state attorney's office.

- v. Whenever an officer wants to discuss dismissing case/charge, the officer must notify his/her supervisor of their intentions.
- d. If a person is on probation or parole, the officer must request permission from the person's probation or parole officer and the judge in the case before using that person as an informant.
- e. The Department discourages establishing any informants less than eighteen (18) years of age.
 - i. If any informant is a juvenile, the officer must obtain permission from their immediate supervisor and signed consent from the juvenile's parent(s) or guardian(s).
 - ii. The Department prohibits establishing an informant who is under sixteen (16) years of age.

2. UTILIZATION OF INFORMANTS

- a. The first priority in agency operational decisions and actions regarding the use of confidential informants is to preserve the safety of the confidential informant, law enforcement personnel, the target, and the public.
- b. Officers, prior to utilizing confidential informants, shall be trained in this policy requirements and procedures. Documentation of such training shall be maintained in the officers' training file.
- c. Whenever an officer establishes an informant, he/she shall advise the person of the following:
 - i. The informant shall not violate any criminal law when gathering information or providing services.
 - ii. The informant has no official status, implied or otherwise, as an agent or employee of the Police Department.
 - iii. Should the information the informant provides be used in a criminal prosecution, the Department will use all lawful means to ensure the informant's confidentiality, however it cannot be guaranteed.
 - iv. Shall be afforded the opportunity to consult (CI's expense) with legal counsel prior to agreeing to performing any activities as a confidential informant.
 - v. That the agency cannot make any promises or inducements such as a grant of immunity, dropped or reduced charges, or reduced sentences or being placed on probation, and that the value (if any) of the confidential informant's assistance and any effect that assistance may have on pending criminal matters can only be determined by the appropriate legal authority.
- d. When using an informant, the officer must control the direction of the operation and the informant.
 - i. The officer must never place himself/herself in the position of having to act when there is not sufficient manpower or equipment to ensure the credibility of the investigation and the safety of all parties involved.
- e. The entire relationship and direction comes from the officer.
- f. Informants are used for the benefit of the Department and not a specific officer.
- g. Contacts between an officer and an informant shall be of a strictly professional nature.
 - i. Social or personal business contacts are strictly prohibited.
- h. Contacts with an informant will be such that his/her knowledge of the Department's facilities, operations, activities, and personnel is kept to the minimum.
- i. Whenever practical, two officers shall be present during all contacts with the informant.
- j. Two (2) officers shall be present when meeting with informants of the opposite sex unless prior approval has been obtained from the officer's supervisor.
- k. All significant contacts with an informant shall be documented.
 - i. This documentation will be made part of the confidential source packet.
- l. When an informant's assistance goes beyond merely providing information and the informant actually participates in the investigation, i.e., making introduction between officers and suspects, making controlled buys of narcotics or stolen property, etc., the officer must control the informant and direct the informant's role/responsibility.

- m. When an informant is a participant in a controlled buy or reverse operation, and will handle funds, drugs or anything of evidentiary value:
 - i. he/she will be thoroughly searched before and after the operation
 - ii. kept under continuous observation, where possible, during the operation to ensure the validity and integrity of the evidence
 - iii. Money should be marked or serial numbers recorded for identification in the event of later recovery as evidence.
- n. Disclosure of an informant's identity shall be avoided even if no prior agreements of confidentiality were made.
 - i. The informant's confidentiality shall be thoroughly controlled.
 - ii. When disclosure of an informant's identity in a case may adversely affect the outcome of a more significant case or investigation, the officer may recommend the case be dismissed after discussion with the prosecutor and the officer's supervisor.
 - iii. When the question of disclosure of an informant's identity arises at trial, the officer should request time to confer with the prosecutor.
- o. It is the responsibility of the controlling officer, whenever the informant becomes unreliable, useless, dangerous or otherwise undesirable, to document this on the confidential source packet, and forward to the supervisor in charge of informant files.
 - i. The supervisor in charge of informant files shall review the notification on the confidential source packet and approve deactivation of the informant.
 - 1. The controlling officer is then instructed to notify the informant of their deactivated status.
 - ii. If at a later date information is received by either the controlling officer or any other officers that indicates that the informant should be re-evaluated as to his/her credibility with the purpose of reactivation, this information should be forwarded to the supervisor in charge of informant files.
 - 1. After reviewing the updated information and a satisfactory report has been documented the supervisor in charge of informant files can re-activate the informant.
- p. It is the responsibility of the controlling officer whenever the informant changes his/her address, phone number, etc., to direct the updated information to the supervisor in charge of informant files.

3. INVESTIGATIVE FUNDS

- a. Each year the Department provides in the budget for an investigative fund as determined by the Chief of Police.
- b. The funds shall be under the direction, control, and shall be the responsibility of the Investigations Bureau Major or designee.
- c. The amount of cash under the direct control of the Investigations Bureau Major or designee shall not exceed \$3,000, unless otherwise authorized by the Chief of Police.
- d. The funds shall be used to finance the following:
 - i. Payments to informants for fees and expenses.
 - ii. Undercover purchases such as narcotics, stolen property; etc.
 - iii. Other expenses incurred during an investigation or operation connected with the investigation.
- e. Receipts should be obtained whenever possible to verify expenses.
- f. The Investigations Bureau Major or designee shall periodically draw cash from the designated fund account.
 - i. This cash shall be maintained by the Investigations Bureau Major or designee in a locked, safe and secure place within the police building.
 - ii. The Investigations Bureau Major or designee is the only person who has access to this cash.

- g. The Investigations Bureau Major or designee shall maintain an investigative fund ledger book recording the amount of funds at the beginning of the fiscal year and any disbursements (expenditures) and deposits throughout the fiscal year.
- h. The Investigations Bureau Major or designee may establish investigative funds for units within the Department or for special investigative projects.
 - i. The amount of cash distributed to a unit shall be at the discretion of the Investigations Bureau Major or designee.
 - ii. The amount of cash distributed to a special investigative project shall be determined at the time the project is planned.
 - 1. The money shall be in the control and the responsibility of the supervisor of the unit in which the project is assigned.
 - iii. When a transaction is completed to or from the fund, the Investigations Bureau Major or designee shall record the following information in the ledger book and/or the voucher:
 - 1. Amount of payment
 - 2. Name of officer and informant or code number.
 - 3. Type of transaction (informant fee, informant expense, controlled buy, officer's expense, undercover buy, other expense, other reimbursement/deposit).
 - 4. Date of transaction.
 - 5. Case number
 - iv. Under no circumstances will investigative funds be used for purchases of food or personal items for any officer without prior authorization from the Investigations Bureau Major or designee.
- i. An officer may request a cash advancement of investigative funds for investigative purposes by completing a voucher.
 - i. The officer shall mark the type of expenditure and the appropriate information and signatures shall be completed.
 - ii. All transactions that are completed on the same date and relative to the same investigation can be documented on the same voucher.
 - iii. When the division or unit supervisor receives the voucher he/she shall sign and date the voucher as verification of his review and approval.
 - iv. All expenditures must be approved by the Investigations Bureau Major or designee.
- j. When an officer requests an advance of investigative funds in the furtherance of an investigation, he/she should first receive approval of the expenditure from the Investigations Bureau Major or designee.
 - i. As already stated in this procedure, a voucher will be completed, documenting the expended funds.
- k. Accounting of funds on hand and receipts will be conducted quarterly by the Investigations Bureau Major and at any time requested by the Chief of Police.
- l. Pursuant to FSS 925.055, the Chief of Police will submit the documents and forms relating to the investigative fund accounting to the Finance Department annually, to have a financial audit completed; or a member from the Finance Department may come to the Police Department to conduct the audit.
 - i. No information or document will be submitted during this audit that reveals the identity of a confidential informant and the audit report shall not include any information exempted under FSS 119.07.

4. ADMINISTRATIVE REVIEW

- a. The Investigations Bureau Major or designee will annually document a review of the Department's CI practices to ensure compliance with Florida Statute and this policy and procedure.

5. GLOSSARY

Confidential Informant (CI) - Any person who,

1. by reason of his or her familiarity or close association with suspected or actual criminals or
2. who can make a controlled buy or controlled sale of contraband, controlled substances, or other items material to a criminal investigation; or
3. can or does supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
4. can otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts and who is, through such efforts, seeking to improve his or her status in the criminal justice system.
 - A person's improved status in the criminal justice system may include, but is not limited to, avoiding an arrest, a reduction or modification of a sentence imposed or to be recommended to be imposed upon him or her, or a reduction or modification of charges pending or anticipated to be placed against him or her and whose association or cooperation with law enforcement must remain unknown to those about whom the information is provided or with whom one or more transactions occur.

Controlled Buy - The purchase (or attempted purchase) of contraband, controlled substances, or other items material to a criminal investigation from a target offender which is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of the confidential informant.

Controlled Sale - The sale (or attempted sale) of contraband, controlled substances, or other items material to a criminal investigation to a target offender which is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of the confidential informant.

Controlling Officer - An officer or agent who has direct control and responsibility over informant funds.

IFE Manager - A supervisory officer responsible for the disbursement and reimbursement of investigative funds for the division or bureau.

Investigative Funds - Funds which are budgeted annually, to provide monetary compensation to informants, to use for undercover purchases, make controlled buys, reimbursements of officer expenses, or other expenses incurred during an investigation.

Source of Information - A person, not under the direction or control of a specific officer, who provides information without becoming a party to the investigation (i.e., a concerned citizen who witnesses or has information about an incident). The source may be compensated for information provided. If the source of information seeks continuing compensation, comes under the direction and control of a specific officer or becomes an active part of the investigative process, this person's status should be changed to that of an informant.

Target Offender - The person(s) whom law enforcement personnel suspects will be implicated by the activities of a confidential informant.

INDEX AS:

- INFORMANTS
- CONFIDENTIAL FUNDS

RESPONSIBILITY INDEX

- CHIEF OF POLICE
- INVESTIGATIONS BUREAU MAJOR
- ADMINISTRATIVE SUPPORT BUREAU MAJOR
- SUPERVISORS
- OFFICERS
- DETECTIVES AND AGENTS

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