

SAN DIEGO POLICE DEPARTMENT PROCEDURE

DATE: January 6, 2017

NUMBER: 3.16 - INVESTIGATIONS

SUBJECT: INFORMANT PROCEDURES

RELATED POLICY: [3.16](#)

ORIGINATING DIVISION: CRIMINAL INTELLIGENCE UNIT

NEW PROCEDURE:

PROCEDURAL CHANGE:

SUPERSEDES: DP 3.16 - 01/17/2014

I. PURPOSE

This Department procedure establishes guidelines for handling and managing informants.

II. SCOPE

This procedure applies to all members of the Department.

III. BACKGROUND

The use of informants is an acknowledged legal and effective method of combating crime. In 1974, the San Diego County Grand Jury stated, “An important source of information for all law enforcement agencies is informants with access to varying groups or elements of society engaged in criminal activity.”

The true informant has access to a variety of groups or individuals engaged in criminal activity. These associations enable the informant to furnish details, on a continuing basis, related to crimes being planned or already committed.

IV. DEFINITIONS

Law enforcement officers receive information from a variety of individuals. These individuals must be divided into three distinct groups so that they, and their information,

can be dealt with in the appropriate and legal manner. These groups are identified and described as follows:

- A. Informant – generally a person who has been or is a member of the criminal element. This enables the informant to move within areas in which an undercover officer would be unable to penetrate. Another important distinction of an informant is that he or she is assisting law enforcement for self-serving reasons, not out of civic duty. The self-motivation of each informant must always be identified and can be placed in one of the following categories:
 - 1. Greed – the informant expects to be paid for the assistance;
 - 2. Legal benefit – the informant wants to mitigate a pending criminal or civil matter (e.g., child custody litigation);
 - 3. The informant wants to eliminate criminal competition;
 - 4. Remorse – the informant is motivated to undo past criminal deeds that he or she has committed;
 - 5. Counter intelligence – the informant is assisting law enforcement to learn how covert investigations are conducted to avoid his/her detection in separate criminal enterprises; and,
 - 6. Revenge – this motivation is usually hidden and is very dangerous. The informant is trying to hurt someone for a past deed (e.g., a bad debt or jealousy of a boyfriend, ex-wife or ex-girlfriend).

In addition to the different motives listed above, all informants could plant evidence or fabricate probable cause to attain their goals.

- B. Information source – assists law enforcement out of civic mindedness, not out of any expectation of gain. The source acquires information, which is of interest to law enforcement, generally because of physical positioning as opposed to membership in the criminal community. The source's information is seldom direct, but hearsay, conjecture, or rumor. Examples of persons who might be information sources would be: a shop teacher in a high school who overhears students talking about another student committing a crime; a bartender at a nightclub frequented by criminals; or, a desk clerk at a residence hotel. The source's activity cannot be directed by law enforcement nor can he/she be paid for information.
- C. Lay witness – a person who, due to circumstance, becomes a direct witness to criminal conduct. The witness may collaterally be either an “informant” or an “information source.” This is, however, irrelevant if the individual is a witness to a crime.

V. GUIDELINES

1. The handling of criminal informants is potentially one of the most hazardous undertakings by an officer. The pitfalls are frequent and sometimes career threatening. For that reason, the rules for informant handling are rigid and unforgiving. Informant management takes expertise that is gained by both classroom instruction and substantial practical experience. Some officers lack this expertise because they have not yet had the opportunity to attend formal training or gain the necessary experience.
2. Although all officers are encouraged to develop sources of information while obeying all applicable laws and Department policies, uniformed field officers are inherently restricted in their ability to adequately manage informants due to other responsibilities and time constraints. Also, as noted above, informants are motivated by issues not related to assisting law enforcement out of civic duty. Physical danger is always a concern when dealing with informants. Many informants will not hesitate to compromise or turn against the handling officer.
3. The Department does not want to discourage any officer from generally developing information and intelligence. However, due to the reasons outlined above, uniformed personnel shall not become involved with, or attempt to manage, informants. Informants need to be directed to the appropriate investigative personnel.

VI. PROCEDURES

- A. Officers will, at times, come into contact with individuals who express a desire to become criminal informants. These individuals should be briefly queried as to the type of criminal activity they are aware of, then placed in contact with the appropriate investigative unit. That investigative unit will be tasked with following the specific steps outlined in the Investigative Procedures Manual.
- B. Coercion shall never be used in recruiting informants. The potential informant must express a willingness to work with the officer.
- C. Neither implied nor direct promises of freedom from arrest and/or prosecution, reduction of charges or modification of sentence shall be made to an active or potential informant.
- D. Evidence against a potential or active informant shall never be destroyed or disposed of as an inducement to encourage recruitment and continued flow of information.

- E. Each potential informant must be profiled, by the detective handler (of the informant), as to:
 - 1. True identity;
 - 2. Criminal history, background; and,
 - 3. Criminal expertise.
- F. A thorough and complete interview will take place before the informant is used.
- G. The detective handler must prepare a written memorandum to his/her supervisor that includes the following information:
 - 1. The circumstances that led to the informant's initial contact with police;
 - 2. The informant's prior cooperation with police or previous informant history;
 - 3. Steps taken by the detective to establish the informant's credibility;
 - 4. The informant's probation or parole status;
 - 5. Circumstances surrounding any violent criminal history or false information to police;
 - 6. How the detective intends to use the informant; and most importantly,
 - 7. The informant's motivation to help police.
- H. Active or potential informants charged with a felony offense shall be prosecuted. The District Attorney's Office, Special Operations Division, must be advised and subsequently concur with the use of a charged defendant as an informant. This is particularly urgent when the defendant has retained or appointed counsel since several serious legal issues come into play. This must take place prior to the use of the person as an informant.
- I. Probation and Parole (state or federal) request notification when one of their subjects becomes an informant. In the rare circumstance where the informant needs to be signed up immediately, due to operational security or the need to move expeditiously, the informant handler can sign up the informant without the immediate knowledge of the supervising agency. This requires the approval of the detective's commanding officer. Once approved, a notation will be inserted into the informant's file stating the supervising agency was not notified. Notification will be made to the supervising agency as soon as reasonably possible. While

conducting operations, informants will have the supervising case agent(s) present when they are available, if operational security does not dictate secrecy.

- J. Use of informants under the age of 18 is strongly discouraged. Enlisting an under-aged informant requires the prior approval of the Assistant Chief of Centralized Investigations. They can be utilized only with the written consent of parents or legal guardians. This consent will be documented by completion of the "Voluntary Informant Participation Agreement for Minors" form. Both parents, if available or legal guardian, when applicable should sign this form. Their signatures must be witnessed and the form signed by the establishing detective and his/her supervisor.
- K. If the juvenile informant is seeking a reduction of pending juvenile petition(s), Penal Code Section 701.5 must be followed. (Refer to the Investigative Procedures Manual for details.) Use of informants 12 years of age or younger is prohibited.
- L. Misdemeanor charges against an active or potential informant shall not be dropped or modified as a reward without the approval of the managing detective's division commanding officer, the prosecuting attorney, and the court that has jurisdiction.
- M. Informants assigned to infiltrate organizations or groups believed to be involved in criminal activity shall be admonished not to engage in, initiate, or provoke illegal activities.
- N. Police personnel meeting with an informant shall have a cover/witness officer. This is the time when the managing detective is most vulnerable to false allegations and to safety hazards posed by the informant. If the managing detective cannot find another detective for cover purposes, it would be appropriate to be covered by a uniformed officer.
- O. When a payment is to be made to an informant, the "Payment Voucher" (PD-536) shall be completed, signed, and witnessed by a second officer. The "Payment Voucher" will never be copied and the original will always be kept in the informant file. All payments made to an informant will be thoroughly documented.
- P. All informant files shall be inspected pursuant to the Police Department Inspections Guide. Frequent review of informant files by unit supervisors is essential in the management process. It is also essential that required authorizations in the process be carried out by the rank designated. Authorizations should never be delegated to "acting" ranks.

VII. ADMINISTRATION OF INFORMANT SYSTEMS

- A. The Criminal Intelligence Unit (CIU) has overall responsibility for maintaining the computerized database of all activated, deactivated, and disqualified informants. CIU also maintains possession of all deactivated informant files for five years. Disqualified informant files will never be purged.
- B. In order to ensure the accuracy of the information in the informant database, CIU will conduct bi-annual inspections of the database. The inspections will be accomplished in accordance with the Department Inspection Guide and Investigative Procedures Manual.
- C. Commanding officers must ensure that one ranking officer is the “Custodian of Informant Records” for the command. That ranking officer is responsible for maintaining, in secure custody, all informant files for the command. Detectives are never permitted to have custody of files on informants they are handling. The only exception is when a detective is directed, by subpoena or court order, to produce the file in court. In that case, the file should be checked out from the Custodian of Informant Records for the command for court and returned to the custodian immediately after the court has reviewed the file.
- D. The Custodian of Informant Records for the command is the only person authorized to place items in the Informant file. Information should never be removed from the informant file. Activity logs should be completed by the handling detective to document all contacts with their informants. Activity logs should be turned over to the Custodian of Informant Records so the logs can be placed in the appropriate informant file.
- E. Any unusual circumstances or requests for discovery should be reported to a CIU supervisor. This will ensure consistency in how such requests are handled throughout the Department.