



MEDFIELD POLICE DEPARTMENT

POLICY NO. 2.02

USE OF PAID CONFIDENTIAL INFORMANTS

MASSACHUSETTS POLICE ACCREDITATION
STANDARDS
REFERENCED: 42.2.1(a);42.2.9

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I. GENERAL CONSIDERATIONS AND GUIDELINES

The department recognizes the importance of confidential sources of information. Such sources are often a prerequisite to the successful solution of many crimes, as well as being important in other areas of investigation. They may provide information that results in the prevention of violence or disruption of public order.

The courts have long upheld the use of confidential sources as legitimate and necessary tools for law enforcement to solve crimes and prevent criminal activity. Each police officer should be cognizant of the role of the confidential source and the need to use the source properly.

Police officers should cultivate all legitimate sources of information. This would include any person who provides information about criminal activity. This includes, but is not limited to, witnesses, other police officers, anonymous tips, and persons who may reveal information through casual conversation. These persons will not go through the accountability process listed in this procedure

unless the officer (or the officer's supervisor) involved with the source of information needs a record of credibility.

The use of confidential informants requires detailed documentation and administrative control. All actions by the confidential informant must be carefully supervised to provide investigative integrity. This policy will provide uniformity, accountability, and protection to officers and the department in official actions with confidential informants, and will serve to enhance the effective use of confidential informants.

The procedures attempt a proper balance among several factors, law enforcement's dual needs to utilize information from sources within the criminal community and to protect the confidentiality of these sources; the justice system's requirement that police and prosecutors establish the credibility of informants, and a police chief's duty to ensure a system of accountability in the handling of informants.

II. POLICY

A. It is the policy of this department that:

1. Paid Confidential informants may be used to enhance efforts to detect, investigate and prosecute criminals; and
2. All necessary precautions shall be taken to protect the identity of paid confidential informants and guard against the misconduct or misuse of confidential informants.

III. DEFINITIONS

A. **Source of Information:** Any person who provides information about criminal activity to the department. This includes, but is not limited to: witnesses, other police officers, anonymous tips, and persons who may reveal information through casual conversations. These persons will not go through the accountability process listed in this procedure unless the officer (or his/her supervisor) involved with the source of information needs a record of credibility.

B. **Informant:** A confidential source who:

1. Provides information in exchange for monetary or other lawful consideration;
2. By virtue of providing information is directed by the contact officer to perform certain lawful acts;

3. By his/her position or knowledge is solicited by the police department to provide information to which [s]he has access; or
4. Provides information about criminal activity in exchange for consideration in any criminal matters which are or may be pending against him/her.

C. **Active Informant/Source of Information:** One who is currently supplying information. Any informant/source of information who has not supplied information for a one-year period shall be considered inactive.

D. **Contact Officer:** A police officer who maintains an ongoing professional relationship with a confidential source.

E. **Entrapment:** Activity on the part of a police officer that induces or lures an otherwise innocent person to commit a crime that [s]he did not contemplate committing. Entrapment is a defense to criminal charges. It is the implanting of criminal intent in the mind of the person. It includes acts of persuasion, coercion, trickery, or fraud carried out by law enforcement officers or their agents to induce a person to commit a crime which [s]he would not otherwise commit.

IV. PROCEDURES

A. Development of Confidential Informants

1. Responsibilities of Contact Officer:

- a. When an officer has developed a confidential source of information whom [s]he intends to use again as an informant, wants to document the use of a source of information, or wants to activate an inactive informant/source of information, the officer shall:
 - i. Complete the Informant Personal History Report containing: [42.4.9(b)]
 - [a] Background information and necessary biographical data;
 - [b] Criminal history and record, if any;
 - [c] Service record, if applicable;

- [d] Recent photograph; and
- [e] Fingerprints.
- [f] Provide informant with a copy of Informant Rules which shall be signed indicating the informant has read and understood the document.

- ii. If the contact officer is unable to obtain all of the information required, [s]he shall submit the Informant Personal History Report along with a written explanation of the reasons [s]he is unable to obtain the missing information.
- iii. Include a summary of the information possessed by the informant and its relative importance to the success of the investigation.
- iv. Submit the completed Informant Personal History Report to the Deputy Chief.

- b. After receiving approval from the Chief of Police or his designee for the use of the informant, the contact officer shall:
 - i. Have the informant complete an Informant Signature file.
 - [a] Forward the Master File copy to the Deputy Chief. The Master File copy will contain only the signature of the informant's code name.

- c. Initiate an Instructions to Confidential Sources of Information form. [S]he shall explain the terms of the Instructions to Confidential Sources of Information form to the informant. Special attention should be given to avoiding entrapment. The contact officer shall have the informant initial each space and sign at the bottom, using his/her code name.
 - i. Each active informant shall be advised of the warnings on the Instructions to Confidential Sources of Information form in the following situations:
 - [a] When [s]he first agrees to supply information;

- [b] At least annually;
- [c] Whenever there is reason to believe that [s]he is engaged in serious criminal activity.
- ii. The officer shall sign and date the back of the Instructions to Confidential Sources of Information form each time the warnings are repeated.
- d. CONTACT WITH INFORMANT: Each time an informant supplies information concerning an investigation to the contact officer, [s]he will complete an Informant Contact Sheet containing a summary of the information received from the informant, whether or not the information is used at the time received, and a summary of any corroboration of the informant's information.
 - i. The copy will be forwarded to the Deputy Chief to be placed in the Master File.
- e. ALTERNATE CONTACT: Introduce the informant to a second officer designated by the Deputy Chief, if possible. The informant should be told to contact the second officer during the times that the contact officer is unavailable.
- f. Officers shall keep the Chief of Police or his designee informed of relations and activities involving informants.
- g. Maintain the security of the Informant files in a locked drawer if outside the master file safe during an active investigation. [42.4.9(d)]
- h. Officers are to seek and accept only that information which furthers investigative activities and law enforcement responsibilities.
 - i. The informant should be treated with consideration, regardless of his/her character, education, or occupation.
 - j. The contact officer should be scrupulous in the fulfillment of all lawful and ethical promises which [s]he has made.
 - k. The contact officer should attempt to determine whether or not the informant is being used by another law enforcement agency and/or officer to prevent duplication of effort.

2. Responsibilities of Deputy Chief

- a. Assign an Informant Number and place it on the Informant Personal History Report.
- b. Determine the suitability of the informant and indicate approval or disapproval on the Informant Personal History Report. If the Informant Personal History Report is incomplete for any reason, the Deputy Chief shall weigh the importance to the investigation of the information the informant possesses against the value of the information missing from the Report in making his/her decision regarding the suitability of the informant.
- c. If the use of the person as an informant is disapproved:
 - i. List the reasons for disapproval in the Other Pertinent Information Section,
 - ii. Notify the contact officer of the decision, and
 - iii. File the Informant Personal History Report in the master file for reference.
- d. If the use of the person as an informant is approved:
 - i. File the master file copy of the Informant Personal History Report in the master file and
 - ii. Return the contact officer's copy to the contact officer.
- e. Ensure the security of the informant's master file. The master file copy shall not contain the name, address, or other personal information that could reveal the informant's identity. [42.4.9(d)]
- f. Review the status of each active recorded informant or source of information on a quarterly basis. When the file indicates that an informant has not been utilized for one year, the Deputy Chief will notify the contact officer to discuss the informant's status.

3. One-Time Informants

- a. A person offering information on a one-time basis in exchange for money may be reluctant to sign the

Instructions to Confidential Sources of Information Form, and there may be insufficient time for an Informant Personal History Report to be signed and approved. In this case, the Deputy Chief may approve the payment and assign an Informant Number.

- b. The contact officer will obtain a receipt signed by the informant and will cause an Informant Personal History Report to be completed with as much information as possible.

B. Dismissing Informants

1. When behavior of an informant reduces his/her credibility or does not meet performance criteria, the contact officer will notify the Deputy Chief.
2. If the Deputy Chief determines that the informant should no longer be used, a memorandum indicating why the informant was deactivated will be placed in the informant's file.
3. The informant shall not be used again without the approval of the Deputy Chief.
4. Any informant who has not supplied information for a one year period shall be considered inactive unless the Deputy Chief specifically approves otherwise.

C. Maintaining Master Files

1. The master file is located in the Deputy Chief's office and is maintained by the Deputy Chief. The master file and the investigators file is in a locked cabinet with restricted access to the Chief of Police and Deputy Chief.
2. Each file in the master file shall contain the following:
 - a. The master file copy of the Cooperating Individual Personal Information Form
 - b. The master file copy of the Cooperating Individual Agreement;
 - c. A copy of the Cooperating Individual Code of Conduct Agreement
 - d. The master file copy of the Informant True Name Record

; and

- e. The master file copy of the Cooperating Individual Contact Sheet
3. Each informant's file shall be maintained for a minimum of ten years after the informant is declared inactive or disapproved.

D. Precautions with Informants

1. The informant should never be permitted to take charge of any phase of the investigation.
2. Meetings with informants should not be held at the police station or a court house.
3. The circumstances surrounding a meeting should not be repeated to the extent that a recognizable pattern is created.
4. The proper name of the informant should never be used in telephoning.
5. In correspondence with the informant, the police department should never be identified.
6. **OPPOSITE SEX:** The contact officer should meet personally with an informant of the opposite sex only in the presence of another officer.
7. **PROBATION/PAROLE:** If it is known that an informant is on supervised probation or parole, the Contact Officer will coordinate with the informant's probation or parole officer to ensure that using the informant does not interfere with conditions of the probation or parole.
8. In order to avoid the risk that the confidential informant's identity might have to be disclosed in court (or the prosecution dropped if it isn't), officers should:
 - a. Use informants only for introductions while having an undercover officer develop the relationship with the target and execute the transaction;
 - b. Prohibit the informant's involvement in planning an operation other than providing information;

- c. Not permit the informant to participate in the criminal offense, unless absolutely necessary and should instruct the informant to leave as soon as possible after negotiations or transactions begin in a drug case;
- d. Not permit the informant to be a witness to the criminal activity which will result in charges being brought against the suspect; and
- e. Attempt to make the informant's testimony cumulative. For example, if the target in a drug case can be persuaded to bring a friend, the informant's testimony might be cumulative to what others present would say, and the informant's identity may not have to be revealed.

9. ESTABLISHING CREDIBILITY OF INFORMATION: The contact officer should attempt to establish the credibility and reliability of information supplied by the informant. Methods include, but are not limited to,

- a. Assessing any information previously provided,
- b. Checking with other law enforcement agencies for whom the informant provided information,
- c. Corroboration of details by other informants or by police investigation,
- d. Surveillance, or
- e. The use of controlled test situations.

10. All pertinent information supplied by an informant should be independently investigated. This is particularly important in the early stages of a relationship with an informant to assist in evaluating his/her credibility and reliability.

E. Juvenile Informants [42.4.9(h)]

1. A juvenile informant may be used only with the approval of the Chief of Police and if:
 - a. Officers have met and discussed the involvement with at least one parent or legal guardian, and

- b. Obtained written permission from at least one parent or legal guardian.

NOTE: In the case of a juvenile whose parents are separated or divorced, permission shall be obtained from the parent having legal custody.

2. When meeting with a juvenile informant, two officers should be present.

F. Criminal Activity by an Informant

1. Authorized Criminal Activity

- a. Informants sometimes gain authority from police officers for participation in activity which would otherwise be criminal. Such authorization must be carefully considered. Authorization for such activity shall be as follows:

- i. The Chief of Police only must approve, in writing the use of an informant for activities which would otherwise be criminal. The Chief's approval should only cover activities in which there is little danger of violence, or corrupt action by a public official is not involved.

- [a] The Chief should obtain the advice of the District Attorney's Office before giving his/her approval.

- ii. When authorizing activity which would otherwise be criminal, the Chief of Police shall attempt to ensure the following:

- [a] There is minimal effect on innocent people;

- [b] The informant is not the primary source of technical expertise or financial support;

- [c] The informant's activity is closely monitored; and

- [d] The informant does not directly profit from his/her participation beyond the plea agreement or compensation provided by the department.

2. Unauthorized Criminal Activity

- a. Unauthorized criminal activity by an informant shall be dealt with as follows:
 - i. An officer learning of unauthorized criminal activity by an informant shall notify the Deputy Chief, who will in turn notify the Chief.
 - ii. The Chief of Police shall:
 - [a] Decide whether or not to delay notification of appropriate law enforcement personnel;
 - [b] Decide whether or not to request appropriate authorities to delay or forego enforcement action;
 - [c] Decide whether or not to continue the use of the informant; and
 - [d] Maintain detailed records of such incidents.
 - iii. Delaying Notification of Law Enforcement
 - [a] The Chief of Police must contact the District Attorney's Office from the affected jurisdiction if [s]he wants to delay notification of law enforcement authorities or request authorities not to take action. Only after contacting the District Attorney shall the Chief of Police make the decision to delay such notification or make such request and continue the use of the informant.
 - [b] In determining whether or not to delay notification of authorities, the Chief of Police shall consider:
 - [1] Whether the crime is completed, imminent or just beginning;
 - [2] The seriousness of the crime in terms of danger to life and property;

- [3] Whether the crime is a violation of federal or state law, and whether a felony or misdemeanor;
- [4] The degree of certainty of the information regarding the criminal activity;
- [5] Whether the appropriate authorities already know of the criminal activity and the informant's identity; and
- [6] The effect of notification on any regional "task force" investigative activity.

b. Under no circumstances shall any officer take any action to conceal a crime by an informant.

G. Confidential Funding

1. The department will maintain a Confidential Investigations Fund for the purpose of purchasing contraband and otherwise supporting intelligence operations. Confidential funds may be used only for the following purposes:
 - a. Payment for information from informants for probable cause to acquire a search warrant or to make an arrest;
 - b. Purchase of contraband; and
 - c. Expenses developing from an investigation where receipt of money from normal channels is not possible.
2. Responsibilities of the Deputy Chief
 - a. The accounting system which documents confidential funding activities will be controlled and operated by the Deputy Chief.
 - b. All requests for expenditures from the confidential fund must be submitted in writing to the Deputy Chief prior to any disbursements.
 - c. Confidential funds will be paid to an informant only after the Deputy Chief has reviewed the amount to be paid the informant and the results of the informant's work.

3. Compensating Informants

- a. Cash payments for information given, services rendered or expenses incurred will be made as follows:
 - i. All informant payments shall require two officers to be present.
 - [a] The informant will fill in his/her code name and the amount of the payment on the Confidential Fund Expenditure Report. [S]he will also sign his/her code name provided [s]he has completed an Informant's Signature Card.
 - [b] This receipt shall then be signed by the witnessing officers. The original shall be placed in the master file and one copy shall be retained by the contact officer for his/her file.
 - [c] All cash payments, and any other items purchased for an informant's personal benefit, must be recorded in the informant's file.
 - ii. The receipt must be completed in full, listing the reasons the informant is being paid, by whom and a brief summary of the investigation.
 - iii. Completed Confidential Fund Expenditure Forms shall be treated as security sensitive information and shall not be disclosed to unauthorized personnel.
- b. If practical, money will not be paid until the case is completed or the information is checked.
- c. All transactions in which an informant receives funds for the purpose of purchasing goods or contraband will be witnessed by two officers, and
 - i. The informant will be thoroughly searched preceding the buy. If the informant's vehicle or residence is utilized in the investigation, a thorough search will also be conducted of those areas to which the informant had access.
 - ii. The informant will be given funds, which have been recorded by serial number, for the purchase of

contraband. The informant shall not purchase any contraband with his/her personal funds. To avoid error, all personal funds should be taken from the informant prior to contact with the suspect. The personal funds shall be returned to the informant immediately after the purchase.

- iii. When possible, constant surveillance will be conducted of the informant after the search and until [s]he meets with officers after the buy.
- iv. After the buy, the informant shall be thoroughly searched again. All evidence and narcotic funds will be retrieved from the informant. When possible, the entire process should be accomplished by the same officer, with the same witness.
- v. The informant shall be thoroughly debriefed, and a written statement, signed by the informant, shall be obtained. If a written report is not practical at that time, a statement shall include a complete description of the suspect, a detailed account of all circumstances and conversations involved in the transaction, and any other facts that may be of importance.

H. Accounting Procedures

- 1. The Deputy Chief shall establish an accounting system for the Confidential Funds Account. This shall consist of a ledger with sequentially numbered pages and the following entries made in ink:
 - a. The Informant's Number only (no names);
 - b. Date of transaction;
 - c. Reason for the transaction;
 - d. The debit or credit made; and,
 - e. The balance of the account.
- 2. The account ledger book will run concurrently with the department's fiscal year and will be balanced monthly. A quarterly audit will be performed by the Deputy Chief who will review all receipts to ensure their accurate documentation and transfer of information to the account ledger book.

3. Department funds will not be used for personal use, nor will they be mixed with personal funds.
4. All departmental funds will be produced upon demand.