



SACRAMENTO POLICE DEPARTMENT

GENERAL ORDERS



533.09 INFORMANTS 12-23-13

PURPOSE

The purpose of this order is to establish procedures for use and documentation of informants.

POLICY

It shall be the policy of the Sacramento Police Department to protect the integrity of the Department and officers using informants; allow officers access to information available from informants concerning their investigations; ensure informant confidentiality and credibility; protect the working relationship between officer and informant; and ensure integrity, accountability, and consistency by officers when contacting and/or paying informants.

PROCEDURE

A. DEFINITION

For the purpose of this order, an informant file shall be made when the following "definitions" apply:

1. **Citizen Informant** - A person who provides information on criminal conduct and actively participates in a criminal investigation because of public spiritedness and whose identity may remain confidential.
2. **Criminal Informant** - A person with a criminal background whose assistance to the Department is based on factors other than public spiritedness.
3. **Mercenary Informant** - A person whose assistance to the Department is based solely on monetary gain.
4. **Juvenile Informant** - A person under 18 years of age who is not yet emancipated (still under parent, guardian, or Juvenile Court control) and is working off a criminal case or for monetary consideration.

B. INFORMANT FILES

1. Informant files shall be maintained by the Office of Investigation (OOI) Captain or designee.
2. All pertinent information shall be permanently kept in a red-colored 9"x12" folder.
3. The following items shall be included in the file:
 - a. A current photo of the informant. If unable to get a photo, discuss the situation with the section lieutenant and/or the Office of Investigation (OOI) lieutenant.
 - b. Informant/Operator Information Sheet (SPD 734) filled out as completely as possible. The SPD 734 should include the criminal areas of expertise (e.g. vice, narcotics, gangs, etc.) and the geographic areas of expertise.
 - c. Informant worksheet (SPD 735) that
 - (1) Accounts for expenditures of confidential expense funds.
 - (2) Documents the reliability and results of informant information and activities.
 - (3) Safeguards the integrity of officers using informants.
 - d. Operator/Informant Agreement worksheet (SPD 725) that is used whenever an informant is working for consideration on a criminal or infraction violation.
 - e. Operator Admonition (SPD 271) required for all informants.
 - f. A printout of any local arrests, CII rap, and DMV CDL.
 - g. A list of any LEA report numbers naming the informant as a suspect or victim.
 - h. Other pertinent information/reports, e.g. credit reference, etc.
4. When informant files are complete, they shall be handed through the chain of command to the appropriate captain. Each approving supervisor shall initial and date the SPD 734.
5. The captain of the OOI or his/her designee shall maintain an index file that shall contain an individual 3x5 index card for each informant file. The index card shall contain
 - a. The informant's name and identification (DOB/SPD#).
 - b. The date initiated.
 - c. The name of the control officer and their assignment.
 - d. Designation of "problem" informant when applicable.



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6. A Western States Information Network (WSIN) check shall be completed on all informants. The check shall be documented in the informant's red file.

C. USE OF INFORMANTS

1. The first-line supervisor or captain's designee shall ensure that all officers adhere to all informant policies.
2. Absent exigent circumstances, officers shall not use an informant without first completing an informant file.
3. Before an informant is used for the first time, contact shall be made with the OOI to determine if an informant file exists.
 - a. If a file exists, officers shall
 - (1) Contact the control officer and his/her first-line supervisor for approval to use the informant.
 - (2) Upon approval, the officer shall review the original red file and update any and all information about the informant, including but not limited to DMV status, criminal history, current photo, etc. See section L1 below. Once completed, the file shall be reviewed through the chain of command to the appropriate captain. Each approving supervisor shall initial and date the SPD 734.
 - (3) The above process shall also be completed when a file is deemed inactive.
 - b. If a file does not exist, officers shall initiate a red file that fully complies with the requirements of this G.O.

D. INFORMANT-OFFICER INTEGRITY

1. Officers shall not withhold the identity of an informant from their superiors.
2. Identities of informants shall be kept confidential.
3. Criminal activity by informants shall not be condoned.
4. Informants shall be told they are acting independently, not as officers, employees, or agents of the Department, and that they shall not represent themselves as such.
5. The relationship between officers and informants shall be ethical and professional.
6. Social contact shall be avoided unless necessary to conduct an official investigation, and only with prior consent of the officer's supervisor.
7. Officers shall not meet with informants unless witnessed by one (1) additional officer. The meeting shall be documented on the Informant Worksheet (SPD 175). All documentation on the worksheet will be completed within four (4) business days.
8. In all instances when Department funds are used to pay informants, an Officer Expense Voucher (SPD Form 718) shall be completed itemizing the expenses.

E. INFORMANT CONTROL AND DE-BRIEFING

1. No compensation shall be paid to any informant for future or unspecified information unless it is for sustenance, i.e. food, lodging. Sustenance funds shall have the prior approval of a lieutenant or higher authority.
2. Information received from informants or actions taken by informants shall be corroborated for reliability before beginning any police action whenever possible.
3. Documented statements shall be obtained from informants who participate in a case if they may become court witnesses (this includes closed door "In camera testimony"). The statements shall include
 - a. A complete description of the suspect.
 - b. A detailed account of circumstances and conversations involved in the transaction.
 - c. Any information of evidentiary value.

F. POTENTIAL INFORMANTS WITH PENDING CASES

Persons who have criminal charges pending may be used as informants in certain circumstances. Any conversations with such persons about considerations on their cases shall be predicated on the following:

1. Officers shall consult with a lieutenant or a district sergeant if a lieutenant is not available, about any possible consideration. Sergeants shall brief their lieutenants as soon as possible.



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2. It may be necessary to operate an informant before approval by a lieutenant or above. This may be done under the following circumstances:
 - a. The operation has the approval of a section or district sergeant.
 - b. Informants are told their cooperation and efforts are only to show good faith and reliability.
 - c. Informants are told any consideration requested cannot be approved at that time.
 - d. Informants are told that any consideration requested may be disapproved by a lieutenant or higher authority, or by the District Attorney (DA).
 - e. No promises shall be made about final disposition of the informant's pending case.
3. Consideration is not final until approved
 - a. By one of the following:
 - (1) The lieutenant or above of the section that has investigative responsibility for the charges pending against the informant, OR
 - (2) A supervisor of the "concerned unit/detail" of any other agency that has investigative responsibility for the charges pending against the informant.
 - b. AND by each of the following:
 - (1) The lieutenant of the section desiring to use the informant.
 - (2) The chain of command above that section and the respective captain.
 - (3) The Deputy DA prosecuting the case against the informant.
4. The terms of any consideration shall be submitted through the chain of command to the appropriate captain on an SPD 725.
5. The SPD 725 shall
 - a. Be routed hand-to-hand, normally within 24 hours.
 - b. Be filled out by the submitting officer.
 - c. Be annotated by the lieutenant or above of the section with investigative responsibility for the charges pending against the informant, or the supervisor of the unit/detail of the outside agency with that investigative responsibility.
 - d. Contain all information known about the informant.
 - e. Contain a summary of the informant's expected value.
 - f. Be signed off by each step of the officer's/investigator's chain of command from sergeant through the respective captain.
 - g. Be placed in the informant's red file (if the agreement is approved).
6. Informant contracts are advisable as they ensure the informant produces the promised results. The contract specifies the conditions that shall be met by the informant to reach the degree of consideration which the informant hopes to receive.
 - a. The contract will be written by the Deputy DA.
 - b. The expected results will be spelled out.
 - c. The type of consideration and expected results will be spelled out.
 - d. The DA will keep the copy of the contract.

G. ARRESTING or ARRESTS OF ESTABLISHED INFORMANTS

Officers shall not intercede on behalf of their informants without first following the same procedures contained in section "F".

H. PROBLEM INFORMANTS

1. Occasionally officers encounter problem informants. Documentation stating why the person is a problem shall be placed in the informant's file.
2. Classification as a problem informant shall not prohibit an informant's use but added screening and approval by a lieutenant or above shall be required before his/her use is allowed.
3. Classification as a problem informant may include, but are not limited to
 - a. Not following directions of the control officer.
 - b. Not keeping appointments or maintaining contact with the control officer.
 - c. Attempting to work with two (2) or more agencies on the same case without the knowledge of each agency.



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I. JUVENILE INFORMANTS (Penal Code Section §701.5)

1. Penal Code §701.5 prohibits any peace officer or agent of a peace officer from using a person twelve (12) years of age or younger as a minor informant.
 - a. Penal Code §701.5 also prohibits any peace officer or agent of a peace officer from using a person under the age of 18 years as a minor informant, except as authorized pursuant to the Stop Tobacco Access to Kids Enforcement Act, unless the peace officer or agent of a peace officer has obtained an order from the court authorizing the juvenile's cooperation.
 - b. Penal Code §701.5 requires the court, prior to issuing such an order, and after specified conditions are satisfied, to make a finding that the agreement to act as a juvenile informant is voluntary and is being entered into knowingly and intelligently.
 - c. The court must consider the following before ruling to use a juvenile as an informant:
 - (1) The court has to establish probable cause that the juvenile committed the alleged offense.
 - (2) The court has advised the juvenile of the mandatory minimum and maximum sentence for the alleged offense.
 - (3) The court has disclosed the benefit the juvenile may obtain by cooperating with peace officer or agent of a peace officer.
 - (4) The juvenile's parent or guardian has consented to the agreement by the juvenile unless the parent or guardian is a suspect in the criminal investigation.
2. If it is determined that the juvenile's cooperation as an informant is warranted, the officer shall obtain prior approval from their chain of command before obtaining a court order to use the juvenile informant. NOTE: The officer shall keep in mind the Department's policy to protect juveniles and children. Any use of juveniles shall balance the welfare of the juvenile against detection, prevention of crime, and compliance with the law (Penal Code §701.5).

J. INFORMANT FILE INTEGRITY

1. Informant red file shall not be removed from the OOI except to obtain necessary signatures for the approval of the red file.
2. Informant red file shall be stored in the designated locked and secured informant file cabinet.
3. No informant red file shall be taken to court.
4. Upon request of the court for information regarding the expenditure of department funds to an informant, the respective captains shall designate a keeper of records to respond to the court's request. The information shall be transferred to written notes for the purpose of oral presentation to the court. The notes should not contain information other than the dollar amounts paid and the number of cases conducted.
5. No informant files shall be duplicated without the authorization of the OOI captain.

K. TRAINING

Supervisors shall ensure all persons under their command are trained in the procedures for handling informants. Officers who become involved in handling informants shall be trained in the creation and maintenance of informant files.

L. FILE MAINTENANCE

1. If an informant file has not been used in four (4) months, it shall be placed in an inactive file. Officers wishing to use an inactive informant shall update the file as stated in section C above.
2. All information contained in active informant files shall be reviewed quarterly by the OOI captain or designee. This shall be done to ensure that files are properly maintained.
3. Files that have been maintained as inactive for a minimum of five (5) years may be purged at the discretion of the OOI captain or designee unless the informant has been classified as unreliable or a possible threat to officers, in which case the file shall be maintained as outlined below in section L.4.
4. A file on an informant who has proved to be unreliable shall be maintained for a minimum of fifteen (15) years unless the informant is deceased, in which case the file may be purged at the discretion of the OOI captain. These unreliable informant files are maintained for reference should the informant try to work for the Department in the future or should another agency inquire about the informant's past reliability.



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5. The following factors shall also be considered before purging a file:
 - a. The nature of the offense(s) with which the informant is associated.
 - b. The informant's criminal record.
 - c. The informant's future application by the Department or an outside agency.
6. Files selected for permanent destruction by the OOI captain shall be noted on the 3x5 card in the central index file.