

Informants

608.1 PURPOSE AND SCOPE

In many instances, a successful investigation cannot be conducted without the use of informants and/or sources of information. To protect the integrity of the Union City Police Department and the officers using informants and/or sources of information, it shall be the policy of this Department to take appropriate precautions by developing sound informant management and control policies.

608.1.1 DEFINITIONS

Definitions related to this policy include:

- (a) **Source of Information** means any person who provides information to a member of this Department regarding suspected or actual criminal activity, by an individual or a group of persons, when the information is not based on his/her personal knowledge, is of a general nature, and is not specific as to the mode or methods used in the furtherance of the criminal activity. A Source of Information shall not be compensated or granted case consideration in return for the information provided
- (b) **Informant** means any person who provides information based on his/her personal knowledge to a member of this Department regarding actual criminal activity, by an individual or a group of persons, when the information is of a specific nature regarding the identity of the persons involved in the criminal activity and specific to the mode and methods used in the furtherance of the criminal activity.
- (c) **Citizen Informant** means any person who provides information based on his/her personal knowledge, who is an eyewitness to a crime, and whose identity is known to the police, and where there is no reason to doubt his/her reliability or the accuracy of his/her information, and who meets the legal requirements established for citizen informants.
- (d) **Untested Informant** means any informant who has provided information based on his/her personal knowledge, where the information provided has not been corroborated by a member of this Department or another law enforcement agency.
- (e) **Tested (Reliable)** Informant means any informant who has provided information based on his/her personal knowledge and who meets the legal standards for reliability.
- (f) **Confidential Informant** means any informant whose identity is known to the Department but is withheld to protect the informant and/or his/her family members or associates from the likelihood of being the victims of violence.
- (g) **Unreliable** means any person who has made inconsistent statements to members of the Department about material issues, who has provided false and/or fabricated information or who, by any other means, violates the instructions given to him/her about assisting the Department, or who demonstrates themselves to be a control problem for the managing employee.

608.2 POLICY

The Union City Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that

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all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

608.3 INFORMANT FILE SYSTEM

The Criminal Investigation Section Supervisor or authorized designee shall be responsible for maintaining all informant related files. All informant related files shall be maintained in a secure area within the Criminal Investigation Section. These files shall be used to provide a source of background information about the informant, enable review and evaluation of information given by the informant, and minimize incidents that could be used to question the integrity of members of the Department or the reliability of the informant.

Access to informant related files shall be restricted to the Chief of Police, Division Commanders, the Criminal Investigation Manager, the Criminal Investigation Supervisor and their authorized designees.

608.3.1 INFORMANT MASTER FILE LOG

A master file shall be maintained of the Department's informants. The master file shall include the names of all informants, the identification number assigned to the informant, the name of the informant's managing employee, and the status of the informant, i.e. active, inactive, or unreliable.

608.3.2 INFORMANT FILE SYSTEM PROCEDURE

Each individual informant file shall be coded with an assigned informant identification number. An informant history shall be prepared to correspond to each informant file and include the following information:

- (a) Informant Profile Form.
- (b) Informant Admonition Form.
- (c) Informant Consent for Monitoring Form.
- (d) Informant's photograph.
- (e) Informant Performance Record.
- (f) Name of officer initiating use of the informant.
- (g) Copies of automated national, state and local warrant system inquiries.
- (h) Copies of DMV driver's license and auto registration information.
- (i) Copies of the first, most recent and most recent and quarterly DMV and warrant inquiries.

608.4 AUTHORIZATION TO USE AND MAINTAIN INFORMANTS

No member of this Department shall use the services of an informant without the written permission of their immediate supervisor and the Criminal Investigation Unit Manager, their Division Commander, or the Chief of Police. This shall not apply to citizen informants as they may be used occasionally in the normal course of conducting criminal investigations, nor shall it apply

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to sources of information who regularly or sporadically supply general information to members of this Department.

Members of this department should not guarantee absolute safety or confidentiality to an informant.

608.4.1 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

608.5 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Division Captain, Investigations supervisor or their authorized designees.
 - 1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
- (b) Criminal activity by informants shall not be condoned.
- (c) Informants shall be told they are not acting as police officers, employees or agents of the Union City Police Department, and that they shall not represent themselves as such.
- (d) The relationship between department members and informants shall always be ethical and professional.
 - 1. Members shall not become intimately involved with an informant.
 - 2. Social contact shall be avoided unless it is necessary to conduct an official investigation and only with prior approval of their immediate supervisor.
 - 3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of their immediate supervisor.
 - 1. Officers may meet informants alone in an occupied public place, such as a restaurant.
- (f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.
- (g) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.

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- (h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

608.5.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

- (a) The informant has provided untruthful or unreliable information in the past.
- (b) The informant behaves in a way that may endanger the safety of an officer.
- (c) The informant reveals to suspects the identity of an officer or the existence of an investigation.
- (d) The informant appears to be using his/her affiliation with this department to further criminal objectives.
- (e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
- (f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.
- (g) The informant commits criminal acts subsequent to entering into an informant agreement.

608.6 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

Except for the enforcement of laws related to the commercial sale of alcohol or tobacco products the use of any juvenile 13 years of age or older as an informant is only permitted when authorized by court order (Penal Code § 701.5).

In all cases, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

- (a) The juvenile's parents or legal guardians
- (b) The juvenile's attorney, if any
- (c) The court in which the juvenile's case is being handled, if applicable
- (d) The Chief of Police or authorized designee

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608.7 INFORMANT PAYMENTS

No informant will be told in advance or given an exact amount or percentage for his/her service.

The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The Criminal Investigations supervisor will discuss the above factors with the Investigations Lieutenant and recommend the type and level of payment subject to approval by the Chief of Police.

608.7.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

- (a) Payments of \$500 and under may be paid in cash from a Criminal Investigations buy/expense fund.
 1. The Criminal Investigations supervisor shall sign the voucher for cash payouts from the buy/expense fund.
- (b) Payments exceeding \$500 shall be made by issuance of a check, payable to the officer who will be delivering the payment.
 1. The check shall list the case numbers related to and supporting the payment.
 2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
 3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
 4. Authorization signatures from the Chief of Police and the City Manager are required for disbursement of the funds.
- (c) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.
 1. The cash transfer form shall include the following:
 - (a) Date
 - (b) Payment amount
 - (c) Union City Police Department case number
 - (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.

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2. The cash transfer form shall be signed by the informant.
3. The cash transfer form will be kept in the informant's file.

608.7.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed \$600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of officers or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant's file.

608.7.3 AUDIT OF PAYMENTS

The Criminal Investigations supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Chief of Police or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts, and logs) will assist with the audit process.

608.8 REVISIONS

Revised: February 20, 2017

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