



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 42.9

TITLE: CONFIDENTIAL INFORMANT USE AND PROCESSES

EFFECTIVE: 08/26/2018

REVISED: Replaces policy 608

PURPOSE

This Chapter provides protocols for the use and control of confidential informants in criminal intelligence and investigations.

POLICY STATEMENT

1. In many instances, a successful investigation cannot be conducted without the use of confidential informants.
2. While the use of confidential informants can be an effective tool in investigations, investigations can be undermined by misconduct of the confidential informant or improper handling by the officer using the informant.
3. To protect the integrity of the New Orleans Police Department and the officers using confidential informants, it shall be the policy of this Department to take appropriate precautions by developing sound informant policies.

DEFINITIONS

Confidential informant/informer (CI)—An individual who, in an arrangement with law enforcement authorities, agrees to serve in a clandestine capacity, in order to insulate the informant from retribution by those involved in crime, to gather information for those authorities on suspected criminal activity or known criminal operatives in exchange for compensation or consideration.

Civilian informant/informers—A confidential informant who provides useful investigative information and who will not be receiving special consideration or monetary gain for services rendered.

Paid informant/informers—A confidential informant who provides useful investigative information to the Department in return for monetary gain.

Consideration informant/informers—A confidential informant who provides useful investigative information to the Department in return for special consideration other than money.

INFORMANT FILE SYSTEM

4. The Superintendent shall designate a member of his/her staff to be responsible for maintaining confidential informant files. A separate file shall be maintained on each confidential informant.

FILE SYSTEM PROCEDURE

5. Each CI file shall be coded with an assigned **Informant Control Number**. A confidential informant personal history shall be prepared by the officer initiating/requesting the use of the informant for each informant file and shall include, at a minimum, the following information:
 - (a) Informant's legal name and all known "street" names or aliases;
 - (b) Date of birth and gender;
 - (c) Physical description: height, weight, hair color(s), eye color, race, sex, scars, tattoos, piercings, body art or other distinguishing features;
 - (d) Current home address, residence addresses for the last five years, and all known telephone numbers;
 - (e) Current employer, job position, address and telephone numbers;
 - (f) Affiliation with legitimate businesses and illegal or suspicious enterprises (including gang affiliations);
 - (g) Relationship between the potential CI and the target of an investigation;
 - (h) The CI's motivation in providing information;
 - (i) Risk that the CI might adversely affect an existing or future investigation;
 - (j) Extent to which the provided information can be corroborated;
 - (k) If the CI is the subject of an ongoing or pending investigation;
 - (l) If the CI is under arrest or has been charged;
 - (m) CI's prior history as a witness;
 - (n) Whether the CI is a risk to the public or a flight risk;
 - (o) Whether the CI is a substance abuser;
 - (p) Whether the CI is related to anyone in law enforcement;
 - (q) Potential risk of harm to the CI or his/her family for cooperating;
 - (r) Prior history as a CI for any law enforcement agency;
 - (s) Current Informant's photograph;
 - (t) Print copy or evidence that a criminal history check has been made, updated and current;
 - (u) A fingerprint card on the informant;
 - (v) Name of the officer initiating/requesting the registration and use of the informant;
 - (w) A current signed and dated informant agreement; and
 - (x) Update on active or inactive status of the informant.
6. The informant files shall be maintained in an access controlled, secure area by the Superintendent's designee. These files shall be used to provide a source of background information about the informant, enable supervisory review and evaluation of information given by the informant, and minimize the potential for incidents that could be used to question the integrity of members of New Orleans Police Department or the reliability of the confidential informant or compromise criminal investigations and prosecutions.
7. Access to the informant files shall be restricted to the Superintendent of Police, the staff member responsible for the informant files and any person specifically authorized by the Superintendent.
8. Access to the informant files and information shall be through the Superintendent's staff member responsible for the informant files.

9. The Superintendent's staff member responsible for the informant files shall be responsible for maintaining a written log to record the identity of any authorized individual accessing an informant file, as well as the date, time and reason any file is accessed. **ALL FILE OR INFORMATION ACCESS SHALL BE RECORDED IN THE LOG.**

USE OF PAID OR CONSIDERATION INFORMANTS

10. Any commissioned member of the Department may develop a confidential informer (CI). The member shall compile sufficient information through a background investigation to determine the reliability, credibility and suitability of the individual, including age, maturity and risk of physical harm.
11. Prior to the commissioned member requesting the use and registering of paid or consideration informers, the potential informer must:
 - (a) Be interviewed by the developing member's supervisor;
 - (b) Complete an NOPD Cooperating Individual Information Form (**Form #142**);
 - (c) Be fingerprinted;
 - (d) Be photographed; and
 - (e) Complete and sign the NOPD Cooperating Individual Agreement Form (**Form #139**).
12. This does not apply to community members who provide information and who do not ask for money or special consideration.
13. If it is known or suspected that the individual providing information is involved in criminal activity, then this individual shall be processed as a consideration informer.
14. Any potential confidential informer must be questioned as to whether they are providing information for any other member of this Department or for members of other law enforcement agencies (this includes state and federal agencies).
15. All information, personal, background and relating to possible criminal investigations, shall be corroborated and/or vetted whenever reasonably possible prior to use.
16. An assessment of the credibility of the information provided should be added to the file as information becomes available so that determinations about future use of that informant can be made.

USE OF CIVILIAN INFORMANT

17. Any civilian informant who develops into a paid or consideration informer shall be processed as stated above.
18. Any civilian informant who is providing information shall be questioned as to his/her identity, reason for providing information and if he/she desires to remain confidential or if he/she is willing to provide testimony in court if necessary.
19. If the civilian informant desires to remain confidential, he/she will be processed in the same manner as a paid confidential informant except for the compensation elements.

CONSIDERATION INFORMERS

20. Prior to seeking special consideration for an informer as to pending criminal charges, the

member must make a written application to his/her Deputy Chief.

21. The application shall contain a complete criminal history of the informer, including his/her "Triple III" which is obtained from the NOPD - National Crime Information Center (NCIC) Unit and all information on his/her involvement or suspected involvement in felonious or violent activities.
22. The member's Deputy Chief shall submit, in writing, his/her recommendation, along with the application and informer history, to the Superintendent for consideration and approval. If approved by the Superintendent, the submitted information and signed approval shall be conveyed to the Office of the Orleans Parish District Attorney – First Assistant District Attorney. The grant of special consideration is entirely within the discretion of the prosecutor's office.
23. **No action will be taken on behalf of the informant until written approval has been received from the Superintendent.**
24. A copy of the approval/disapproval shall become part of the informant's file.
25. Department members are prohibited from seeking the release of an informant who is a prisoner (ROR or other form), a reduction of bond or sentence, suspended sentence, reduction of charges, or have a case refused except as outlined in this Chapter.
26. Nothing in this policy shall prohibit a department member from seeking a legal and proper release of an immediate family member.
27. Nothing in this policy shall prohibit a department member from seeking a legal and proper release of an individual who has, through investigation, been found to be innocent of the charges filed. The member must document the facts in a supplemental report under the original investigation's item number, submit the report for expedited supervisory approval and immediately notify the Office of the Orleans Parish District Attorney so that appropriate action can be taken by the prosecutor to have the case re-screened and, if appropriate, the charges refused and the subject released.
28. Members of this Department shall not intimidate or coerce any individual, or grant any individual the right to commit a criminal offense.

PROBATION AND PAROLE

29. In all instances where an individual under the supervision of the Probation and Parole Department wishes to be a paid/consideration informer for this Department, the requesting officer shall obtain the written permission from the individual's probation and parole officer prior to using the individual as a paid informer or consideration informer.

JUVENILE INFORMANTS

30. Individuals under the age of eighteen years of age shall not be used as paid informers or consideration informers without the prior written approval of the Superintendent of Police and the parent/legal guardian of the juvenile.
31. A cooperating juvenile who assists the Department, with the approval of his/her parent/legal guardian, in enforcement activities involving alcohol or tobacco retail sales to minors is not considered an informant for purposes of this policy.

GUIDELINES FOR HANDLING PAID/CONSIDERATION INFORMERS

32. All confidential informants are required to sign and abide by the provisions of the Department Cooperating Individual Agreement Form (Form 139). The officer requesting the use and registering the confidential informant shall discuss each of the provisions of the agreement with the confidential informant.
33. Details of the agreement are to be approved in writing by the unit supervisor before being finalized with the confidential informant.

DEACTIVATING OR TERMINATING A CONFIDENTIAL INFORMANT

34. A confidential informant will be deactivated when:
 - (a) The confidential informant no longer has the potential to furnish information or services that could lead to prosecution or the interdiction of criminal behavior; or
 - (b) The confidential informant is no longer willing to cooperate.
35. The services of a confidential informant shall be terminated when the confidential informant has provided intentionally false information or has displayed unsatisfactory or criminal behavior or misconduct. Once the services of a confidential informant has been terminated, he/she may not be reactivated.
36. An interoffice correspondence (105) shall be prepared by the officer maintaining the confidential informant or his/her supervisor in all cases recommending deactivation or termination. The 105 will follow the same approval / notification chain as the original approval process and maintained in the confidential informants file.
37. If a confidential informer violates the provisions of the Cooperating Individual Agreement by becoming involved in criminal activity or a member becomes aware of any other information that may negatively impact the CI's credibility or suitability, the officer maintaining the confidential informer shall notify the original witnessing supervisor and the Superintendent's office staff member responsible for the informant files.
38. The confidential informer shall be immediately removed from active status in cases of deactivation or termination. Should the original witnessing supervisor no longer be available, the officer maintaining the informer shall notify his current supervisor.
39. An individual deactivated as confidential informer through violation of provisions of the Cooperating Individual Agreement but not subject to termination of services may be re-established as a confidential informer with the approval of the current witnessing supervisor. The supervisor must weigh the potential usefulness of the CI against the liability of his/her criminal activity affecting potential cases. The procedure shall be the same as establishing a new confidential informer.
40. Once an individual is accepted as a Paid or Consideration informer, he/she shall be assigned an **Informant Control Number** by the staff member responsible for the informant files in the Office of the Superintendent of Police.
41. Once approved and active, all references and documentation involving a paid/consideration informer shall be accomplished using the informer's code number.

SEARCH WARRANTS BASED ON INFORMANT SUPPLIED INFORMATION

42. The affiant will confirm information supplied by informants used in the drafting of all warrants. Information obtained from informants must be thoroughly examined and

documented in order to be used in and successfully sustain the probable cause for the warrant and future court challenge. Sworn personnel shall include as much information as possible in the probable cause section of the affidavit.

43. Affiants must observe the exact location (e.g., house, apartment, floor) where correct entry will be made for the service of all search warrants.
44. Supervisors will confirm that affiants have personal knowledge of the location before approving plans for the service of all search warrants.
45. Affiants and their supervisors must direct and control others that help with the service of all search warrants.
46. When the probable cause contained in an affidavit for a search warrant is based on the use of information from a confidential informant, a copy of the affidavit and search warrant shall be hand-delivered in a sealed envelope to the Superintendent's Office the next working day after the warrant has been approved or disapproved.

INFORMATION GATHERING

47. All interactions from the initial contact between investigators and informants shall be documented in order to establish and maintain the integrity of the information and protect the identity of the informant.
48. When information is collected from an informant and can be used by other investigators of the Department or outside law enforcement agencies to initiate or further an ongoing investigation, the appropriate unit or outside agency shall be notified and the notification documented.
49. Information sought by investigators from their informants will not be limited to the geographic boundaries or specific interests of the investigator's unit.
50. Investigating officers will debrief their confidential informants fully and accurately on all targets of interests. When it becomes necessary to brief confidential informants on significant targets, that information which was provided to the confidential informant will be noted in the informant's file by the officer making the disclosure. Information noted shall include the date and the name of the person the information was disclosed to.
51. Any information which could adversely reflect upon the integrity or conduct of an employee of the Department or concerning police corruption will be reported immediately to PIB.

CONTROLLED PURCHASES USING INFORMANTS

52. The payment of Departmental funds to any confidential informant must be done in a manner respecting public opinion and scrutiny. To maintain a good accounting of such funds requires a strict procedure for disbursements.
53. All payments made to a paid informer shall be made with the approval of the ISB Narcotics Section Commander, or his/her designee.
54. All reference and documentation involving a Paid/Consideration informer shall be accomplished using the informer's **Informant Control Number**.
55. Confidential informants shall be instructed that they are not permitted to use their own

personal funds to purchase any goods or contraband for a police investigation.

56. The serial number of all U.S. currency that is utilized in a controlled purchase shall be photocopied, prior to providing the currency to a confidential informant.
57. Immediately before providing buy money to a confidential informant, the confidential informant shall be thoroughly searched by the officer providing the buy money and witnessed by at least one (1) other officer. Whenever feasible, the search of a confidential informant shall also be witnessed by a supervisor and in accordance with **Chapter 1.2.4 – Search and Seizure**.
58. The name and payroll number of the officer conducting the search of the informant before “buy money” is provided and after the buy is completed shall be recorded on the EPR. Also, the name and payroll number of any witnessing supervisor, if present, shall also be recorded.
59. Whenever feasible, the confidential informant shall be kept under constant surveillance from the time he/she is thoroughly searched, until the time he/she returns to the same officer who conducted the pre-purchase search after the completion of the controlled purchase.
60. The confidential informant shall be thoroughly searched at the completion of the controlled purchase by the same officer who conducted the pre-purchase search and shall be witnessed by at least one (1) other officer. Whenever feasible, a supervisor shall also witness this post purchase search of a confidential informant.
61. Controlled purchase payments to a confidential informant shall be witnessed by at least one (1) other officer, in addition to the officer conducting the payment. Whenever feasible, a supervisor shall also witness controlled purchase payments to a confidential informant.
62. In instances where a confidential informant receives multiple payments for the purpose of purchasing goods or contraband during an investigation, the exchange of payments shall always be conducted by the same officer, unless exigent circumstances exist. Exigent circumstances will be documented on the NOPD Cooperating Individual Contact Sheet (**Form #140**).
63. The investigating officer shall thoroughly debrief confidential informants at the completion of a controlled purchase. This debriefing will ensure a complete description of the target suspect; the events that occurred during the controlled purchase; and any other facts of importance. This information may be used in paperwork, including the affidavit of Probable Cause.
64. At end of the tour of duty, all U.S. currency used for controlled purchases shall be accounted for, and all unused U.S. currency shall be returned to the appropriate supervisor to be secured in the unit safe.

CONTACT WITH INFORMER DOCUMENTATION

65. All contact between Department members and informers shall be documented on an NOPD Cooperating Individual Contact Sheet (**Form #140**), which will be maintained in the member's unit file.
66. This Form #140 information shall be turned in no later than the end of the member's tour of duty or within the first hour of the member's next tour of duty if the contact was made

while the employee was off duty.

67. Exceptions to the contact requirement and documentation may only be given on an individual, case by case basis, by the member's Deputy Chief.

SECURITY OF INFORMATION

68. The security of the informer's identity and the information received is of the utmost importance. All information shall be kept in a restricted access secure area, under lock and key, and accessible only to those members already privy to the information.
69. Any electronic or computer files containing information relative to paid/consideration informants shall be password protected and accessible only to those individuals already privy to the information.

CONSIDERATION/PAID INFORMERS ACTIVITY STATUS

70. Consideration/Paid informers will remain in an active status for a period of six months whether information has been received from the CI, even if the CI has not received funds from the Department.
71. Officers will maintain contact sheets when such information is received and maintain them as provided in the provisions of this Chapter.
72. The officer shall forward copies to the Superintendent's office staff member responsible for the informant files with the payment packet.
73. Contact sheets not resulting in immediate payments to CI's need not be forwarded immediately upon receipt of the information but must be forwarded to the Superintendent's office staff member responsible for the informant files within two weeks of the contact.
74. The Commander of the ISB Narcotics Section shall be responsible for ensuring a database is maintained consisting solely of the CI's Code Number and last date paid (exclusive of CI payments in bound book).
75. Inactive cooperating individuals will not be paid until they have been reactivated through the Superintendent's office staff member responsible for the informant files. Individuals wishing to be reactivated shall be processed as a new informer as outlined in this policy.

RELATIONSHIPS WITH CONFIDENTIAL INFORMANTS

76. No member of the New Orleans Police Department shall knowingly maintain a business, personal, or social relationship with a confidential informant while off-duty or become romantically or intimately involved with a confidential informant.
77. Members of the New Orleans Police Department shall neither solicit nor accept gratuities or engage in any private business transaction with a confidential informant.
78. To maintain officer/informant integrity, the following requirements shall be met:
 - (a) Officers shall not withhold the identity of an informant from the Superintendent of Police, his/her designee or the Commander of ISB Narcotics Section;
 - (b) Except as directed herein, identities of informants, juvenile or otherwise, shall be kept confidential;
 - (c) Criminal activity by informants shall not be condoned;

- (d) Informants shall be told they are not acting as police officers, employees, members or agents of the New Orleans Police Department and that they shall not represent themselves as such. This agreement shall be memorialized in writing;
- (e) The relationship between officers and informants shall always be ethical and professional;
- (f) Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the ISB Narcotics Section Commander;
- (g) Officers shall not meet with informants in a private or public place unless accompanied by at least one additional officer or with prior approval of the ISB Narcotics Section Commander.
- (h) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer promptly; and
- (i) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
- (j) Officers must notify the appropriate prosecutor of their intentions, prior to making an appearance on behalf of an informant in a criminal case or administrative proceeding.
- (k) Officers shall not appear on behalf of an informant in any court or administrative proceeding without the prior written authorization of their Bureau Chief.

PAYMENT PROCEDURE

- 79. The amount of funds to be paid to any confidential informant will be evaluated against the following criteria:
 - (a) The extent of the informant's personal involvement in the case.
 - (b) The significance, value or effect of the use or information on crime.
 - (c) The amount of assets seized.
 - (d) The quantity of the drugs / contraband seized.
 - (e) The informant's previous criminal activity.
 - (f) The level of risk taken by the informant.
 - (g) Other factors that may motivate the informant.
- 80. Payments shall be documented on an NOPD Cooperating Individual Payment Receipt (**Form #143**) which will be signed by the member making the payment, the informer receiving the payment using his **Informant Control Number**, and the member's supervisor, who must witness the payment.
- 81. Officers shall complete the in-house Narcotics Funds Withdrawal form, complete with all required supervisory signatures, prior to accepting funds for informer payment.

CASH DISBURSEMENT POLICY

- 82. No informant shall be told in advance or given an exact amount for services rendered.
- 83. When both assets and drugs have been seized by officers based on information provided by the CI, the confidential informant shall receive payment based upon overall value and the purchase price of the drugs seized, not to exceed a maximum of \$6,000 without the prior approval of the Superintendent of Police.
- 84. The Commander of the ISB Narcotics Section or the specific Grant Program Director shall be responsible for compliance with any audit requirements associated with grant fund provisions and applicable state and federal law.

PAYMENT PROCESS

85. The cash amount will be paid to the case agent. The case number shall be recorded justifying the payment. The disbursement of money shall be handled in accordance with established state law and City policies, ordinances and protocols. The Commander of the ISB Narcotics Section, or his/her designee, will be required to sign the voucher for all payments. Any payment in excess of \$1,000 must be approved by the Commander of the ISB Narcotics Section.
86. The Narcotics Unit confidential informant payment fund is a cash fund managed by the Commander of the ISB Narcotics Section or his/her designee in compliance with the Cash Handling Security and Management Policy. These funds shall be maintained in a locked cash box that is secured in a locked cabinet, desk or drawer in the Commander of the ISB Narcotics Section office, or the Office of the Confidential Informant Payment Coordinator. This office will be secured whenever it is unoccupied.
87. At least two members shall be present when paying confidential informants. To complete the transaction with the confidential informant, the case agent shall have the confidential informant initial the cash transfer form. The confidential informant will sign the form indicating the amount received, the date and that the confidential informant is receiving funds in payment for information voluntarily rendered in the case. The New Orleans Police Department case number shall be recorded on the cash transfer form. A copy of the form will be kept in the confidential informants file.
88. The Commander of the ISB Narcotics Section shall maintain a bound book which records all transaction numbers for each payment. This book shall be kept in a secured location (e.g., locked desk, file cabinet or drawer). The following shall be recorded:
 - (a) Date of payment.
 - (b) Location of incident.
 - (c) Contraband seized.
 - (d) Number of arrests.
 - (e) Name and signature of officer.
 - (f) Amount paid.
 - (g) Remaining balance in payment account.

SUPERINTENDENT'S OFFICE

89. A packet consisting of the following shall be forwarded to the Superintendent's staff member responsible for the informant files within seven days of receipt of the payment funds:
 - (a) NOPD Cooperating Individual Payment Receipt.
 - (b) Narcotics Fund Withdrawal form.
 - (c) A copy of arrest report, if applicable.
90. The Superintendent's staff member responsible for the informant files shall stamp the packet received and return a copy to the officer. This copy shall then be returned to the ISB Narcotics Section. All documentation must be received by the ISB Narcotics Section within seven days of the receipt of funds. Exceptions may be requested on an individual basis through a 105 from the member with signature approval from his/her supervisor, to the ISB Narcotics Section Commander or his/her designee, with a copy forwarded to the Superintendent's staff member responsible for the informant files.
91. The original NOPD Cooperating Individual Payment Receipt form, bearing the signature of the cooperating individual, shall be maintained by the Superintendent's staff member responsible for the informant files. The signature on the original form shall be concealed

during copying to protect the individual's identity. This copy shall then be returned to the ISB Narcotics Section.

REPORTING OF PAYMENTS

92. Each confidential informant receiving a cash payment shall be informed 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 confidential informant shall be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the confidential informant and by doing so jeopardize any investigation, the safety of peace officers or the safety of the confidential informant (26 CFR 1.0641-3), then IRS Form 1099 should not be issued.
93. In cases where the IRS Form 1099 is not issued, the confidential informant shall be provided a letter signed by the Commander of ISB Narcotics Section identifying the amount the informant must report on tax returns as "other income."
94. The informant 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 confidential informant's file. It shall be the responsibility of the case officer using the informant to issue the Form 1099 or letter to the informant.

AUDIT OF PAYMENTS

95. At least once every six months the Superintendent of Police, Superintendent's staff member responsible for the informant files or an authorized designee shall conduct a thorough audit of all informant funds for the purpose of accountability and security of the funds. Petty cash records, transfer forms, invoices, receipts and logs will assist with the audit process.

CASE FILINGS AND DISCLOSURE OF INFORMANTS

96. All of the facts related to the actions of the informant must be known by the prosecutor in order to properly evaluate the provability of the case and the likelihood of being able to protect the identity of the informant.
97. At the time the case is presented for filing, the prosecutor must be notified if an officer wishes to protect the true identity of an informant in any judicial setting. This disclosure will assist the prosecutor in making filing determinations.
98. If an informant participated at any stage in the planning or commission of the crime being charged, thereby becoming a witness to the crime, including, but not limited to, taking defendant to the scene of the crime, acting as a lookout, or driving the getaway car, the officer must notify the District Attorney at the time the case is presented for filing. Prosecuting such a case will likely require disclosure of the informant.