

## 3-01/110.60 - Use of Informants

The purpose of this policy is to set procedures for the use of informants. Informants are judicially recognized sources of information and are people who have, or have access to, information that could benefit criminal investigations and who are willing to provide that information to law enforcement. This section describes types of informants and how they are used.

Prior to use of an informant by any Department member, strict adherence to this policy shall be followed. MPP Section 3-01/110.65 mandates the documentation and accounting of each informant and their activities. MPP Section 3-01/110.75 regulates the use of informants and specifically mandates supervisors to oversee the activities between investigators and informants.

### Definitions of an Informant

Confidential Reliable Informant: A person whose reliability and credibility have previously been established. This usually consists of, but is not limited to, validating at least one prior occasion where information from this informant proved to be factual and resulted in a valid arrest, seizure, or conviction.

Confidential Informant: A person who is untested and possibly providing information to law enforcement for the first time.

Citizen Informant: A citizen informant is motivated solely by good citizenship. A citizen informant must be registered and approved if they are not merely self-reporting suspicious activity but actively directed by Deputies in any evidence or intelligence gathering capacity or receive any consideration or handle any Department funds.

Defendant Informant: A defendant informant is a person working to reduce criminal charges pending against him or her. Defendant informants, who have materially assisted the Department in any criminal investigation, may be considered for an appropriate sentence recommendation or if deemed applicable, their charges may be dismissed and not presented to the District Attorney's Office. Whether the defendant informant has satisfactorily met their obligation should be decided by the handling Deputy or Investigator with the concurrence from the investigator's supervisor.

Defendant informants shall not be released from custody to be used as an informant without completion of a 849(b)(1)PC release form, or other proper release processes (e.g. bail, bond, cite OR, etc.), positive identification via fingerprints, and approval for use as an informant by the Supervising Sergeant and Lieutenant.

What the acceptable consideration is will be determined by the handling Deputy and the Crew Sergeant, and shall be approved by the Zone/Team Lieutenant. The consideration may include not filing the informant's original case or may include a letter of consideration upon filing. If either of these considerations occurs, the following procedures shall be followed:

Case Not Filed: A supplemental report shall be written under the original file number indicating, "Complaint not sought per Lieutenant \_\_\_\_\_."

NOTE: Do not indicate in the report that the defendant was an informant.

Case Filed: Meet with the prosecuting district attorney and seek input prior to submitting the consideration package to the Unit Commander for approval. The consideration package must be approved by the Unit Commander, then the Area Commander and finally the Division Chief. If the Division Chief approves the consideration package, it will be returned to originating unit, and the letter to the court will be prepared for the Unit Commander's signature.

For additional information regarding Consideration for Defendants, refer to MPP Section 3-01/110.70 for instructions for the Approval Process and compiling the Consideration Package.

Minor Defendant Informants: California Penal Code Section 701.5, restricts the use of "minor informants." Section 701(e) defines a minor informant as a minor who participates, on behalf of a law enforcement agency, in a prearranged transaction or series of prearranged transactions with direct face-to-face contact with any party, when the minor's participation in the transaction is for the purpose of obtaining or attempting to obtain evidence of illegal activity by a third party and where the minor is participating in the transaction for the purpose of reducing or dismissing a pending juvenile petition against the minor.

Section 701.5 (b) prohibits the use of a person 12 years of age or younger as a minor informant. The use of a person under the age of 18 years to 13 years may be used as a minor informant, but only after obtaining a court order authorizing the minor's cooperation.

Section 701.5 (b) allows for a juvenile to be used to enforce the "Stop Tobacco Access to Kids Enforcement Act" as cited in Section 22950 et al. of the Business and Professions Code. However, minors shall not be used to enforce 22950 Business and Professions Code without the expressed authorization of the minor's parent or legal guardian, and the Unit Commander.

Juvenile Informants: A juvenile informant is any person under the age of 18 years old, and who is not defined by California Penal Code section 701.5(e). The use of a juvenile informant is permitted without a court order when the participation of the juvenile is in **other** than direct face-to-face contact with any party, and when the juvenile's participation is for other than dismissing or reducing a pending juvenile petition against the juvenile.

Juvenile informants should not be used as informants except under the most compelling circumstances and when no reasonable alternative exists. The investigating Detective or Deputy shall obtain expressed written permission from the juvenile's parent(s) or legal guardian, unless the parent(s) or guardian is a suspect in the matter. In addition to parent approval, the Detective or Deputy shall obtain permission from the Unit Commander, Area Commander and the Division Chief.

The juvenile's use as an informant must be evaluated against the nature and seriousness of the offense under investigation. Often, juvenile informants may be "citizen informants" who are victims or witnesses to the crime being investigated. Their use to gather evidence may be necessary to successfully prosecute an offender and to protect the juvenile and/or other potential victims.

Detectives and/or Deputies shall obtain a signed "Waiver and Release of Claims and Indemnity Agreement" (Juvenile Informant form SH-AD-690) prior to using a juvenile as an informant.

#### Jail House Informants

Department members shall not seek out or utilize jailhouse informants or house any inmate in any housing area for the purpose of obtaining information for a criminal case, except as authorized by a Lieutenant

supervising the investigation. Non-investigative personnel and/or untrained line personnel who are contacted by an inmate who wants to provide information about a criminal investigation shall notify their immediate supervisor, who will ensure the proper investigators are notified.

Jailhouse informants may be utilized without a court order when there is an urgent need to maintain security and order by obtaining information about a potential disturbance, violent confrontations, escape attempts or other security hazards.

#### Unreliable or Unsuitable Informants

If the informant is found to be unreliable or unsuitable, the informant shall be entered into L.A. Clear's data base indicating they are unreliable or unsuitable. Once an informant is deemed unreliable or unsuitable, other Department members may not use them as an informant. One or more of the following actions could cause an informant to be classified as "Unreliable" or "Unsuitable" based on an evaluation by the handling Deputy or investigator:

- Lying;
- Failure to follow directions;
- Carrying a concealed firearm while an informant;
- Identifying themselves as a peace officer;
- Revealing their own status as an informant to unauthorized persons; and/or
- Jeopardizing themselves or the mission.

#### Informants with Prior Criminal History or other Risk Factors

Investigators shall use careful consideration when using informants that have a history of serious criminal offenses, or other activities which might compromise an investigation or discredit the Department. Some convictions may cause the informant to be deemed unsuitable and could jeopardize the investigation, and the eventual prosecution (e.g. perjury, assault with a deadly weapon on a peace officer, rape, child molestation, etc.).

Informants that are on probation for a drunk driving conviction, or an informant who has a suspended or restricted driver license may not drive a vehicle while working in the capacity of an informant.

Investigators may advocate for the use of informants that have a criminal history or prior questionable behavior when they believe the significance of the investigation(s) warrants approval. A Lieutenant may approve the use of informants who fit into the above described category when they believe that the significance of the investigation warrants such approval. In such instances of a serious criminal record, the approved request will then be forwarded to Unit's Captain and Area Commander.

#### Informants on Active Parole or Probation

Informants who are on active state parole may not be used without the express prior permission of the informant's parole officer. Federal supervised release status persons require a federal court order allowing use of an informant. Permission from the granting authority must be noted on the Informant Activation Form. It is advisable to contact the County Probation Department for those on active probation prior to use. If the informant is a defendant informant, the Probation Department may want to violate the probationer and not

want them used as an informant.

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