THE ALLEGHENY COUNTY CHIEFS OF POLICE ASSOCIATION

MODEL POLICY

INFORMANTS AND SOURCES OF INFORMATION GUIDELINES

An Allegheny County Criminal Justice Advisory Board Project

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In Partnership With

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This model policy should serve as a starting point, to be reviewed, by the Chief/Superintendent, your Municipality, and Insurance Carrier before being implemented.

MODEL
INFORMANTS AND SOURCES OF INFORMATION GUIDELINES

01 PURPOSE

The purpose of this policy is to provide Police Officers with general guidelines on the use of "Informants."

02 POLICY

The Department has established guidelines for the use of "Informants" which can be a valuable tool. However, the guidelines for selecting, evaluating, documenting, supervising, and compensating informants **and** sources of information must be strictly followed. These guidelines are designed to reduce the risks inherent in supervising the activities of informants, and to protect the interests of the Department and its personnel.

03 INTRODUCTION

A. General: The Department recognizes that informants and sources of information are valuable assets essential to the success of many investigations. However, motivations such as fear and revenge, or expectations of financial gain and prosecutorial consideration, make working with certain individuals precarious and at times **dangerous**. Officers must therefore exercise extreme caution in selecting, evaluating**,** supervising, and compensating informants.

B. Use of Informants by Police Officers: In certain investigations, it may be appropriate for a Police Officer to use or supervise an Informant. Police Officers involved in the use of an Informant shall be bound by the procedures outlined in these guidelines. Determinations regarding the continued participation of a Police Officer in an Informant-involved investigation beyond the evaluation stage, shall be made on a case-by-case basis, taking into consideration administrative constraints, operational needs, and the existence or availability of specialized units.

04 DEFINITIONS

A. **Informant**: A person, under the direct supervision of a Officer, who provides lawful services or furnishes information about suspected criminals or criminal activity for consideration, either financial, prosecutorial, or judicial; or a person who actively participates in a criminal investigation or intelligence operation, under the direct supervision of a Officer, with or without expectation of compensation or confidentiality.

B. **Source of Information**: A person, not under the direction or control of a specific Officer, who provides information without becoming a party to the investigation (e.g., a concerned citizen who witnesses or has information about an incident). The source of information may be compensated for information provided. If the source of information seeks continuing compensation, comes under the direction and control of a specific Officer, or becomes part of an active investigative process, this person's status should be changed to that of an "Informant". An

individual shall not be categorized as a source of information, if any criminal charges are pending against that individual and that individual has an expectation of leniency related to those charges.

C. Confidential Informant: A person who wishes to remain anonymous for fear of reprisals against him/herself and/or their family. Every reasonable effort will be made to keep their identity confidential, but it is strongly advised that he or she not be told that their identity will positively remain confidential. Their involvement with certain investigative actions may necessitate that their identities will be revealed at some point during the prosecutorial process.

D. Control Officer: A Officer who has direct control and responsibility for an informant and for funds paid to the informant.

E. Investigative Funds: Funds budgeted annually to provide monetary compensation to informants, to use for undercover purchases to make controlled buys, for reimbursements of Officer expenses, or other expenses incurred during the investigation.

05 INFORMANT EVALUATION

A. General: Personnel shall apply the following criteria when considering individuals as prospective informants:

1. The informant must be in a position to measurably benefit current investigations or intelligence operations, or provide sufficient information to initiate new investigations or intelligence operations.

2. The informant must be judged, to the extent reasonably possible, to be unlikely to compromise Department interests, activities, or personnel.

3. The informant must be willing to accept the degree of supervision and direction required to effectively complete assignments.

B. Special Authorizations: Officers shall obtain special authorizations as indicated for prospective informants meeting the following criteria:

1. The Department prohibits the use of any informants who are less than 18 years of age except under extraordinary circumstances and only after consultation with the D/Chief or Chief, who if has any questions or concerns can contact the applicable Assistant District Attorney**.** In that event, Juveniles may be used as informants only with the written consent of a parent or legal guardian. In cases where the parents or legal guardians are targets of the investigation or the Juvenile suspects they may disclose the fact that the Juvenile is cooperating with the Police, consent must be given by the applicable Assistant District Attorney. (If Task Force, appropriate Coordinator, who will notify the D/ Chief or Chief).

2. Although The DEPARTMENT normally prohibits establishing informants who are less than 18 years of age, they can be a "Source of Information."

3. Whenever a prosecution is pending against a prospective informant and it is anticipated that the charges will be reduced, the sentence will be mitigated or the prosecution withdrawn, then the appropriate Assistant District Attorney must be advised and approval of a plea agreement be granted before any cooperation takes place.

4**.** Whenever a Officer wants to discuss dismissing, reducing, or amending criminal charges and/or prosecution with an Assistant District Attorney or Judge, the Officer **MUST** notify the Chief of Police of those intentions (If a District Attorney's Task Force, also the appropriate Coordinator, who will notify the DAI D/Chief or Chief). In cases where DANET funds were expended for purchase of evidence or overtime for investigators, no agreements of any kind may be made by task force officers without the express approval of the DAI Chief or D/Chief via appropriate Coordinator. This includes agreements to not file any or all charges against the potential informant.

5. Individuals previously declared unreliable, in accordance with this regulation, may be used as informants, only with the approval of a Unit Supervisor (ie. D/Chief or Chief of Police) (If DA Task Force, appropriate Coordinator, who will notify the DAI D/Chief or Chief).

6. Individuals on State Probation/Parole may be used as informants only with written authorization of the Board of Probation and Parole. Written requests shall be forwarded to the D/Chief, and must be accompanied by a completed Agreement Concerning Use of Probationer/Parolee as an Informant, (Appendage D), signed by the appropriate Unit Supervisor.

a. The request shall include:

(1) The informant's name, address, date of birth, Social Security Number, and probation/parole numbers.

(2) The probation/parole Officer's name and address.

(3) The current arrest status, including pending charges, presiding judge, and detention center, if applicable.

(4) The nature and extent of the proposed informant's expected cooperation, including undercover introductions, controlled purchases, etc.

(5) The significance of the individuals or organizations which are the subject of the proposed informant's activities.

(6) The expected results of the proposed informant's cooperation.

(7) The possibility of out-of-state travel.

(8) The proposed informant's eligibility for the Witness Protection Program, if necessary.

(9) The nature and type of supervision to be imposed on the proposed informant.

(10) The statement of willingness to assume responsibility for the proposed informant, while under the direct supervision of the Department.

b. If approval is granted, a detailed progress report shall be forwarded to the D/Chief, every 90 days. The report shall include:

(1) The extent of cooperation of the informant during the reporting period.

(2) A summary of the informant's adjustment during the reporting period.

(3) Any informant activity outside the scope of previously approved activity.

(4) Any change in utilization of the informant for which approval has not previously been given.

7. Individuals currently incarcerated, whose intended use requires temporary release to a Officer's custody, may be used as informants only with approval of a Supervisor and the D/Chief and consent of the applicable Assistant District Attorney. Requests to use such individuals shall be in writing to a Supervisor who shall forward the request to the D/Chief and the applicable Assistant District Attorney, and shall include the general information required in this section, with the following additional information: (DA Task Force Members submit to their Coordinator who will forward to the DAI D/Chief and applicable Assistant District Attorney)

a. Whether the individual's testimony will be required.

b. Whether relocation of the individual will be necessary.

c. Whether the actor has a history of violence, has any P.F.A.s lodged against him, or any criminal history that may indicate he is a threat to society or any individuals.

d. The release of an inmate from incarceration should only be considered under exceptional circumstances and as a last resort.

8. Individuals who are arrested on view may not be utilized as informants until after arraignment and after the Informant History Reports and Informant Conditions Statement have been completed.

C. Initial Interview:

1. A comprehensive initial interview by the Control Officer is essential to properly evaluate and determine a prospective informant's eligibility, motivations, and potential value. The degree of the informant's exposure to Department activities and judicial proceedings, shall be determined by a critical analysis of the informant's capabilities, veracity, and credibility.

2. While the nature and extent of initial interviews may vary with individual backgrounds and circumstances, a broad line of inquiry should, if possible be developed to extract information on all criminals and criminal activity known to prospective informants. Focusing too narrowly on current targets could result in overlooking even more promising leads, and may not reveal the best possible use of the individual's services. In order to ensure a broad line of inquiry, the Debriefing Questionnaire Form (Appendage B), **MAY BE USED AS A GUIDELINE OF THE TYPE OF INQUIRY THAT SHOULD BE CONDUCTED**.

D. Dissemination:

1. The Supervisor or D/Chief will ensure that appropriate dissemination of intelligence information occurs (If Task Force, appropriate Coordinator).

2. Except under extraordinarily justifiable circumstances, information gained on serious criminal activities, i.e., felonies, shall be acted on, or when applicable, forwarded by the most expedient means practicable to the appropriate law enforcement personnel. Whenever possible, the Supervisor with the approval of the D/Chief shall forward such information in separate correspondence to the applicable Law Enforcement Agency, or agencies without compromising sources or investigations.

E. Officer Prohibited Conduct:

Officers are prohibited from engaging in the following conduct:

a. Socializing with informants and/or their families.
b. Becoming romantically involved with informants.
c. Buying anything from an informant.
d. Selling anything to an informant.
e. Conducting business of any type with informants.
f. Allowing informants to sign anything, such as a receipt for payment, without the entire receipt being completed.

F. Complaints:

1. Allegations of misconduct or complaints against Officers' handling of informants shall be received and processed in accordance with established procedures. Such allegations or complaints should not generally be permitted to disrupt the course or progress of the original criminal investigation.

2. Complaints involving death or serious bodily injury, arrests of personnel, major breaches of conduct by personnel, discharged weapons, serious vehicular damage, or complaints likely to generate more than routine public interest, shall require immediate notification, through channels, to the Chief of Police. Such complaints should not be permitted to disrupt the course or progress of the original criminal investigation unless it is determined by the Chief of Police, that the continuation of the original criminal investigation is likely to hamper or compromise the subsequent internal Administrative Investigation.

G. Informant History Report:

An account of initial interviews and subsequent personal and administrative information regarding Department informants shall be reported on the Informant History Report, (Appendage A).

H. Criminal History Records and Fingerprints:

1. A thorough review process of each potential Informant must take place in order to assess risks and determine reliability. **An important component of this process would be the positive identification of the potential informant. This might be accomplished through a variety of means, but must be accomplished to the complete satisfaction of the investigator**. **A COMPLETE ALL STATES, NATION SEARCH FOR CRIMINAL HISTORY SHALL BE MADE UTILIZING HIS/HER NAME, DOB, AND SSN; OR SID OR FBI NUMBERS WITH ALLEGHENY COUNTY 911, INDEX.** However, if any doubt exists in the Officer's mind as to the identity of the potential Informant, he or she must be fingerprinted and photographed and the cards submitted to the PSP and FBI for a criminal inquiry and NCIC check. In all cases, the individual will be checked for wants and warrants. Proof of the completion of this process must be offered by an affirmative statement by the Officer on the Informant History Report above his signature

EXCEPTION: Those individuals acting solely as sources of information need not be fingerprinted or photographed, if their identities can be definitively established by other means of verification, e.g., driver's license or other photo identification. Approval to compensate a source of information must be received from the D/Chief. The approval will be documented in the NARRATIVE Block of the Informant History Report.

2. Informants may be used on a limited and provisional basis pending positive identification. However, suitable precautions shall be taken to ensure absolute control over such individuals until identification is confirmed.

I. Liability Issues:

There are many situations encountered in supervising, which expose The Department to possible liability. Therefore, the following conditions shall be addressed during all initial interviews. Prospective informants must freely and voluntarily agree to the following:

1. Informants are not law enforcement Officers nor Department Officers, and at no time shall they represent themselves as such.
2. Informants shall not carry firearms or other weapons while cooperating with investigations.
3. Informants cannot search anyone, any place, or anything for any reason.
4. Informants **shall not** participate in criminal activities outside the scope of Department-supervised investigations.
5. Informants shall follow the instructions of the Control Officer while cooperating with investigations.
6. Informants shall not engage in **ANY** activity which would persuade a person, who would not otherwise do so, to commit a crime.
7. They shall remain available to the Control Officer until all investigations with which they cooperated are closed.
8. They shall not hold the Department or its Officers liable for any injury suffered or sustained as a result of their cooperation with investigations.
9. Compensation received for specific services rendered during their cooperation with investigations represents full and complete payment for such services. Cooperating individuals have no future claims against

The Department for such services. Participation does not make them an employee of any kind of the Department, Allegheny County or the Commonwealth of Pennsylvania.

10. Information they provide may result in a criminal proceeding. The Department will make every reasonable effort to protect their confidentiality, but **CANNOT** guarantee the informant's identity will not be disclosed.

J. **Informant Conditions Statement:** The informant or source of information shall indicate their agreement to the above conditions by signing an Informant Conditions Statement Form, (Appendage C) at the time of the initial interview. The Informant Conditions Statement will be witnessed by the supervising Officer and when practicable, another law enforcement Officer. The Informant Conditions Statement shall then be attached to all copies of the Informant History Report.

06 DUTIES AND RESPONSIBILITIES

A. D/Chief:

1. Ensure the same individual is not activated as an informant by more than one Officer/Unit.
2. Ensure individuals declared unreliable by one Officer/Unit have not been unknowingly reactivated by another.
3. Ensure correspondence regarding the status of informant operations is made a permanent part of the informant program file and that the results are reported to the Chief of Officers yearly.

B. Unit Supervisor

1. Administer and securely maintain the Informant History Files.
2. Ensure persons meeting the definition of informant or source of information are documented as such.
3. Ensure the same individual is not activated as an informant by more than one Officer.
4. Ensure initial interviews are comprehensive and that a signed and witnessed Informant Conditions Statement is attached to the Informant History Report.

5. Ensure all Informant History Reports are complete and include criminal history documentation and an Informant Conditions Statement signed by two witnessing officers.

6. Ensure special authorizations required by this regulation have been acquired.

7. Ensure all prospective informants have been assigned for work with specific Control Officers.

8. Ensure informant code numbers are assigned.

9. Ensure individuals declared unreliable by one Officer have not been unknowingly reactivated by another.

10. Ensure informant compensation is commensurate with the service or information provided.

11. Ensure The DEPARTMENT funds are disbursed in accordance with Departmental Policy.

07 INFORMANT FILES

A. General: A separate file jacket for each informant shall be maintained by the originating Officer and appropriate Supervisor.

B. Contents: The files of all informants shall contain the following:

1. Initial Informant History Reports, including Informant Conditions Statements, special authorizations required by these guidelines.

2. All administrative correspondence, including re-presentations made on the informant's behalf or other considerations furnished.

3. Deactivation and Declaration of Unreliability information.

C. Storage:

1. Informant file jackets shall be maintained separately in a locked filed cabinet or storage facility under the exclusive control of the D/Chief; or designee. Informant files can be automated in a format approved by the Chief of Police. The Automated Informant Files shall be subject to the same level of security as the original files.

2. Access to the files are permitted only to Officers with a legitimate and compelling need, or to prosecuting Assistant District Attorney when access is essential to the prosecution of a case.

3. Auditors or others engaged in evaluating The Department shall not be granted access to informant files without express written authorization of the Chief of Police. Such authorization shall be limited to review of the summaries or extracts. **In no case will they include informant identities.**

08 SUPERVISING INFORMANTS

A. Contacts: (At least two Officers must be able to contact each informant.) Informant contacts shall be strictly professional and controlled to minimize exposure of Department facilities, operations, activities, and personnel. **Whenever practicable, two Officers from this Department, or a Officer from this Department and another law enforcement agency Officer (ie. Joint Investigation, Task Force Investigation) should be present at all in-person informant contacts.**

EXTRANEOUS BUSINESS OR SOCIAL CONTACTS WITH INFORMANTS ARE PROHIBITED.

B. **Multiple Informants:** Informants or Sources of Information who know each other, are from the same neighborhood or were or are in jail together with information on the same case or investigation shall be interviewed simultaneously by different teams of Officers.

C. **Opposite Sex Informants:** All personal contacts with informants of the opposite sex, or whose sexual preference may make an investigation more susceptible to compromise through alleged improprieties, should be conducted by any combination of two law enforcement Officers, when possible.

D. **Searches:** Informants who are exposed to Department funds, controlled substances, or evidence of any kind, shall be thoroughly searched before and after undercover encounters and, whenever possible, kept under continuous observation between searches. All searches shall be conducted by Officers of the same sex as the informant.

E. Juveniles: Parents, legal guardians, or, if applicable, prosecutors, shall be informed of the termination of cooperative arrangements with juveniles. Officers shall be especially diligent in protecting juveniles from situations which could reasonably be expected to cause physical or emotional harm. In no case shall Officers knowingly place juveniles in dangerous situations.

F. Polygraph Examinations: Informant information is normally corroborated through comparison with known facts and investigative follow-up. In situations where these approaches are impractical or insufficient, and corroboration is essential to the investigation or prosecution, polygraph examinations by members of the Allegheny County Police Department,

the Pennsylvania State Police, or others approved by the Chief or D/Chief shall be considered. **POLYGRAPH** EXAMINATIONS SHOULD **BE GIVEN TO ALL INMATE AND/OR PAROLE INFORMANTS IF THE INFORMATION PROVIDED IS LIKELY TO SUBSTANTIALLY IMPACT AN INVESTIGATION AND CANNOT BE VERIFIED BY OTHER MEANS.**

G. Criminal Activity: Any Officer with knowledge of an informant's arrest or unsupervised involvement in criminal activity shall, as soon as practicable, notify the D/Chief who will notify the Chief of Police. The D/Chief will ensure a review is conducted to determine the appropriate course of action to be followed.

H. Reassignment: Informants are valuable assets whose services and information must be managed wisely. The Department , therefore, asserts the right of the D/Chief or Chief to reassign informants who have been recruited or managed by any member of this Department in order to increase productivity or meet changing investigative needs.

I. Transfer: Informants may be transferred between organizational segments of The Department to meet operational needs.

1. Temporary Transfer: A status of informants who are transferred between organizational segments on a short-term basis. All supplemental reports shall be processed in accordance with existing regulations.

09 INFORMANT COMPENSATION

A. **General**: All compensation of informants and sources of information shall be commensurate with the service or information provided. Compensation in the form of prosecutorial or judicial consideration **SHALL NOT** be promised without consent of a Supervisor and the District Attorney's Office.

Cash Payments: Payments must be documented on a cash voucher with an explanation of the services provided by the informant, along with the informant's, payee's and if possible a witness signatures. Single payments exceeding $50, or multiple payments to the same informant exceeding $500 per 30-day period, require the prior approval of a Supervisor. Single payments exceeding $500, or multiple payments to the same informant exceeding $2500 per 30-day period, require the additional prior approval of the D/Chief. (Appendage E).

B. **Controlled Substances:** Informants, including those individuals acting in an unwitting capacity, **SHALL NOT** be compensated with controlled substances.

10 INFORMANT DEACTIVATION

A. Deactivation: Informants shall be deactivated when:

1. Special authorizations required by this regulation are expired, withdrawn, or revoked.

B. **Unreliable Deactivation**: Informants shall be declared unreliable and be deactivated when:

1. They have participated in criminal activities outside the scope of Department-supervised investigations.

2. They are no longer willing to accept the degree of supervision and direction required to effectively complete assignments.

3. They are suspected of providing false or misleading information.

4. They have acted in such a way as to compromise Department interests, activities, or personnel.

NOTE: Informants who are declared unreliable shall not be reactivated without consent of the D/Chief.

11 INFORMANT REACTIVATION

Upon completion of an initial interview of a currently deactivated informant who has previously cooperated with The Department, the Officer shall attach the following: A Criminal History Record inquiries/responses, Informant Conditions Statement, and special authorizations required by this regulation to the appropriate copies of the Informant History Rep