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|  | <b>STANDARD OPERATING PROCEDURE</b><br>State Form 39870(R/S-06) | Reference Number<br><b>INV-011</b>        |
|   | Subject<br><b>Confidential Informants</b>                       |   |
|   | Special Instructions<br>Replaces INV-011 dated July 6, 2011     | Effective Date<br><b>January 15, 2015</b> |

## **I. PURPOSE**

Establish guidelines for identifying, documenting, processing, evaluating, and utilizing confidential informants.

## **II. POLICY**

The Department shall utilize confidential informants (CI's) to obtain criminal information and intelligence as a part of lawful criminal investigations. To protect the integrity of all criminal investigations each CI shall be processed, evaluated, and utilized within the guidelines established within this procedure. The Department shall attempt to protect all aspects of a CI's identity and background unless the CI is going to be a witness.

## **III. PROCEDURE**

### **A. Confidential informant (CI) number shall:**

1. Be assigned to a person who provides information but whose identity must be kept confidential.
2. Be a unique number for each CI and never reused for a different CI.
3. Be obtained from the Criminal Intelligence Unit (CIU), Special Investigations Command (SIC).
4. Be assigned to the person whose name is listed in the name block on the CI packet. This number may be used in reports when it is necessary to refer to the informant and when the person's identity is not to be revealed.

### **B. Documentation of Confidential Informants (CIs).**

1. The reporting officer shall complete the Confidential Informant packet (Stock #654) in full according to the preparation guidelines attached to the CI packet.
2. A Confidential Informant packet shall be completed on the same day the CI number is drawn. The packet shall be submitted, with all attachments, to the reporting officer's supervisor within five (5) working days. The supervisor shall process the form in accordance with Section C., below.
3. The reporting officer is responsible to interview the potential CI.
4. During the interview, the reporting officer shall determine the motive of the person and explain the CI fees and other rules that relate to the work of a CI.

5. Monetary payment may be provided only after a person has been documented and approved by the SIC Commander or designee as a 'Class II A' or 'Class III' CI.
6. A person being documented as a Class III confidential informant must complete a handwriting sample, be fingerprinted, photographed, and must sign a CI Agreement.
7. Written consent to work as a CI must be secured from the person's parole or probation officer (if applicable) and submitted with the CI documentation.
8. No individual under the age of 18 shall be used as a CI, unless with advanced written approval by the SIC Commander.
9. A documented CI shall not be used, unless exigent circumstances exist, until approval has been granted by the SIC Commander or designee.

**C. Supervisory/management responsibilities.**

1. Upon completion of a CI packet, the reporting officer shall submit it and all attachments to the immediate supervisor within five (5) working days.
2. The immediate supervisor is responsible for ensuring the CI packet is properly completed.
3. If the supervisor approves the person, the supervisor shall process the completed CI packet and have the complete file and all attachments delivered to the Criminal Intelligence Unit (CIU) by either U.S. Mail, interdepartmental mail, or hand delivery within five (5) working days.
4. All active CIs shall be evaluated by the CI's reporting officer at the end of each calendar quarter. After approval and placed in an active status (for all or part of a calendar quarter) an evaluation shall be completed and submitted to the CIS within five (5) working days of the end of each quarter.
5. All CIs who remain in an active status for over one (1) year will be interviewed on an annual basis by the supervisor of the reporting officer. The supervisor will document the date and time of the interview and will report any issues of concern. This information will be forwarded to CIU and included in the CI's packet.

**D. Special Investigations Command Processing.**

1. When the CI packet arrives in the CIU:
  - a. The handwriting sample shall be forwarded to the Forensic Document Unit;
  - b. Criminal Activity Report shall be processed by CIU;
  - c. The CI Form shall be evaluated for completeness, by CIU, and if approved by the SIC Commander, the file shall be maintained in a master file in a locked safe in CIU.

2. The SIC Commander or designee shall have authority to approve, deny, or revoke the active status or classification of any CI.

3. The reporting officer shall be advised, as soon as it is determined, that a problem exists with the CI packet or if sensitive information is obtained regarding the CI.

**E. Payments to confidential informants.**

1. Per diem information and relocation expenses shall be limited as outlined in INV-009.

2. Funds shall not be paid to a CI who is in an inactive status. Exceptions shall only be made with prior written approval by the SIC Commander.

3. If the Enforcement Aid Fund is utilized to furnish any expense (meal, gas, etc.), that expense shall be considered a part of the informant's per diem for that date.

4. A CI, who is cooperating in order to bargain for leniency from the criminal justice system, shall not be paid per diem, relocation expenses, or a reward unless the reporting officer has secured prior written approval of the SIC Commander.

5. Per diem shall not be paid to a CI for a day when no information is obtained that would assist in developing probable cause for an arrest or constitutes criminal intelligence.

6. All other confidential fund expenditures require prior written approval by the SIC Commander or designee.

**F. Confidential informant's periodic evaluation.**

1. An active CI shall be evaluated at the end of each calendar quarter. The CI Periodic Evaluation Form (State Form #42532, Stock #655) shall list a summary of the CI's work and classify the CI as reliable, partly reliable, or unreliable and a statement explanation.

2. The evaluation form shall carry a status report (active or inactive) on the CI, date completed, and the evaluating officer's PE number and signature.

3. The CI evaluation form shall be submitted to the reporting officer's supervisor within five (5) working days of the evaluation date.

4. The reporting officer's immediate supervisor is responsible for ensuring the evaluation form is properly completed.

5. The supervisor shall ensure the properly completed evaluation form is delivered to the CIU within five (5) working days of receipt and no later than 10 days from the end of each calendar quarter. Any attachments shall be sent by U.S. mail, interdepartmental mail or may be hand delivered.

### **G. Discovery of confidential informant records.**

1. Department personnel shall do everything possible to prevent the disclosure of a CI's identity.
2. Department personnel should ask prosecutors to invoke the "informer's privilege," whenever applicable.
3. Any Department member who receives a subpoena for CI information or files shall immediately notify the SIC Commander. If possible, a copy of the subpoena seeking informant information/records shall be faxed or emailed directly to the SIC Commander. The SIC Commander will then coordinate with the Legal Office for assistance, when applicable

### **H. Operational guidelines.**

1. CI's shall not undertake any activity of interest to the Department unless that person is acting under the direction of a Department employee.
2. When a CI is utilized in a controlled buy of evidence, the CI shall be searched before and after the buy.
  - a. The search shall be conducted at the closest time possible to the buy and as soon as possible after the buy.
  - b. If a female CI is being utilized, the search shall be conducted by a female officer.
  - c. The time and location of the searches must be a consideration so as not to jeopardize the investigation or the safety of the informant.
  - d. The search shall include the informant's vehicle and residence, if used in the controlled buy.
3. The CI shall be debriefed, as soon as possible, after a controlled buy or after the completion of an assignment where the CI was working out of sight of a Department employee.
4. Whenever the CI is working out of sight of a Department employee and the situation allows it, the CI shall be equipped with a recording device(s).
5. No inmate, who is to be used as a CI, shall be removed from a detention or correctional institution without prior written approval of the Superintendent and the head of the detention or correctional agency.
6. When an officer wishes to reactivate a CI, the officer shall petition the SIC Commander, in writing, through channels, and shall provide an updated CI form, as well as the reason for reactivation. Fingerprints and the questioned document forms do not have to be resubmitted if they are still in file from the original application; however, a new photograph may be required. The SIC Commander or designee shall approve or deny the request.

7. Department personnel shall maintain only professional relationships with CI's. A person who becomes aware of, or who observes, alleged inappropriate conduct shall immediately report the allegation to the immediate supervisor.
  8. Cover stories that would suggest a sexual relationship between a CI and a Department member require prior written approval of the Department member's supervisor.
  9. Any Department employee having knowledge of a CI being arrested or involved in any criminal activity shall notify the SIC Commander. Once notified, the commander shall cause a review to be made to determine whether the CI should be deactivated.
- I. This procedure is to be used in conjunction with all relevant Department regulations, rules, policies, and procedures.