

Guidelines For Florida State And Local Law Enforcement Agencies In Dealing With Confidential Informants

*(As Adopted By
The Florida Police Chiefs Association,
The Florida Sheriffs Association,
The State Law Enforcement Chiefs Association, and
The Florida Department of Law Enforcement
March, 2009)*

I. Policy Statement

The utilization of confidential informants is lawful and often essential to the effectiveness of properly authorized criminal investigations or intelligence-gathering activities. At the same time, such utilization carries with it special challenges and risks that warrant prudent and responsible efforts. Those adopting or utilizing these Guidelines acknowledge that special care must be taken to carefully evaluate and closely supervise the use of confidential informants. Due to the inherent dangers associated with the investigations of drug-related crimes and other serious offenses, or similar concerns in any situation in which the use of a confidential informant is anticipated, a priority of such operations is the safety of the persons involved, including the confidential informant, agency personnel, target offender(s), and the public. Law Enforcement agency operational decisions and actions regarding the use of confidential informants must keep the safety of involved persons a top priority, and agency personnel should exercise the utmost care and judgment in order to minimize the risk of harm to all persons involved.

II. Purpose

The purpose of these statewide guidelines is to promote among the state and local law enforcement agencies utilizing confidential informants the development and maintenance of comprehensive policies and procedures addressing the recruitment, selection, and utilization of confidential informants and to articulate minimum training expectations for those agencies. Compliance with these guidelines will enhance the goal of establishing more uniform practices throughout the state and promote the safety of those involved in operations involving confidential informants. These statewide guidelines are intended to assure, to the greatest extent possible, uniformity of policy and procedure regarding the use of confidential informants by state or local law enforcement agencies throughout the state.

III. Principles

The following principles shall be incorporated within the policies and procedures of any state or local agency involved in the utilization of confidential informants --

A. The first priority in agency operational decisions and actions regarding the use of confidential informants is to preserve the safety of the confidential informant, law enforcement personnel, the target, and the public.

B. Factors to be considered in assessing the suitability of a confidential informant prior to the informant's utilization shall include, but are not limited to:

1. The informant's age and maturity;
2. The risk the informant poses to adversely affect a present or potential investigation or prosecution;
3. The effect upon agency efforts that the informant's cooperation becoming known in the community may have;
4. Whether the person is a substance abuser, has a history of substance abuse, or is known by the lead investigator or officer to be involved in a court-supervised drug treatment program or drug-related pretrial intervention program;
5. The risk of physical harm that may occur to the person, his or her immediate family, or close associates as a result of providing information or assistance, or upon the person's assistance becoming known in the community;
6. Whether the person has shown any indication of emotional instability, unreliability, or of furnishing false information;
7. The person's criminal history and/or prior criminal record;
8. Whether the nature of the matter being investigated is such that the use of the informant is important to, or vital to, the success of the investigation.

C. Each state or local agency utilizing confidential informants shall establish policies for the recruitment, control, and use of confidential informants that shall, as a minimum, contain the following requirements:

1. Articulation of standards related to maintenance of information regarding confidential informants, detailing what information shall be maintained on confidential informants, and standards stating general guidelines for the handling of confidential informants;
2. Articulation of the agency's process to assure the confidential informant is advised of conditions, restrictions, and procedures associated with his or her participation in the state or local agency's investigative or intelligence-gathering activities;
3. Establishment of a clearly designated supervisory and/or command-level review and oversight in the utilization of any confidential informant;
4. Limiting or restricting off-duty association or social relationships by agency personnel involved in investigative or intelligence-gathering with confidential informants;
5. Articulation of guidelines for the deactivation of confidential informants, to include necessary deactivation communications to the informant.
6. Articulation of the level of supervisory approval required prior to the utilization of any juvenile as a confidential informant.

- D. Any person who is requested to act as a confidential informant shall, upon request, be afforded the opportunity to consult with legal counsel prior to agreeing to perform any activities as a confidential informant.
- E. Each state or local law enforcement agency utilizing confidential informants shall ensure that when utilizing a confidential informant who is facing criminal charges, agency personnel clearly indicate to the informant that the agency cannot make promises or inducements such as a grant of immunity, dropped or reduced charges, or reduced sentences or being placed on probation, and that the value (if any) of the confidential informant's assistance and any effect that assistance may have on pending criminal matters can only be determined by the appropriate legal authority.
- F. Each state or local agency utilizing confidential informants shall ensure that all involved or otherwise appropriate personnel are trained in the agency policy requirements and procedures, and shall keep documentation demonstrating the date of all such training.
- G. Each state or local agency utilizing confidential informants shall establish written records security procedures that, as a minimum:
 - 1. Provide for the secured retention of any records related to the agency's confidential sources, including access to files identifying the identity of confidential sources;
 - 2. Limit availability to those records to those within the agency or law enforcement community having a need to know or review those records, or to those whose access has been required by court process or order;
 - 3. Require notation of each person who accesses such records (including date of access),
 - 4. Providing agency review and oversight to assure the security procedures are followed, and
 - 5. Define the process by which confidential informant records (if any) may be lawfully destroyed.
- H. Each state or local agency utilizing confidential informants shall perform a periodic review of actual agency confidential informant practices to assure conformity with the agency's policies, procedures and these Guidelines.
- I. These Guidelines, and their adoption by organizations or agencies do not create a substantive or contractual right, or entitlement for any person.

---End of Guidelines statements; Appendix (Definitions) follows---

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APPENDIX — Definitions

Confidential Informant (CI):

Any person who, by reason of his or her familiarity or close association with suspected or actual criminals or

1. who can make a controlled buy or controlled sale of contraband, controlled substances, or other items material to a criminal investigation; or
2. can or does supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
3. can otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts

and who is, through such efforts, seeking to improve his or her status in the criminal justice system.

A person's improved status in the criminal justice system may include, but is not limited to, avoiding an arrest, a reduction or modification of a sentence imposed or to be recommended to be imposed upon him or her, or a reduction or modification of charges pending or anticipated to be placed against him or her and whose association or cooperation with law enforcement must remain unknown to those about whom the information is provided or with whom one or more transactions occur.

Controlled Buy: The purchase (or attempted purchase) of contraband, controlled substances, or other items material to a criminal investigation from a target offender which is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of the confidential informant.

Controlled Sale: The sale (or attempted sale) of contraband, controlled substances, or other items material to a criminal investigation to a target offender which is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of the confidential informant.

State or local law enforcement agency: As used in these Guidelines, a state or local law enforcement agency is an agency having a primary mission of preventing and detecting crime and the enforcement of the penal, criminal, traffic or highway laws of the state and that in furtherance of that primary mission employs law enforcement officers as defined at Section 943.10, Florida Statutes.

Target Offender: The person whom law enforcement personnel suspects will be implicated by the activities of a confidential informant.

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