

	<b>HARRISONBURG POLICE DEPARTMENT</b> General Orders	<b>Policy Number:</b> 512
	<b>Chapter:</b> Investigation Operations	<b>Total Pages:</b> 7
	<b>Section:</b> Informants	<b>Issue Date:</b> 07/02/2021
	<b>Issued By:</b> Kelley Warner, Chief of Police	<b>Effective Date:</b> 07/01/2024
	<b>Replaces:</b> All General Orders Previously Issued Relative to Subject	
<b>VALEAC Standards: OPR.02.06 (a), OPR.02.06 (b), OPR.02.06(c), OPR.02.06 (d), OPR.02.06 (e), OPR.02.06 (f), OPR.02.06 (g), OPR.02.06 (h), OPR.02.06 (i)</b>		

## A. POLICY AND PURPOSE

The purpose of this policy is to provide guidelines for the use of informants. The Harrisonburg Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the procedure outlined.

Officers assigned to federal, or state task force will comply with appropriate policies and guidelines.

## B. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this policy. Responsibility rests with the supervisor to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated. This directive is for internal use only and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

## C. DEFINITIONS

**Informant** - A person who covertly interacts with other individuals or suspects at the direction or request of, or by agreement with, the Harrisonburg Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Harrisonburg Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

Types of informants:

- a. **Regular/constant** - Those informants who maintain constant communication and provide information on a regular basis. These informants have no hidden motive to provide information except to assist in a criminal investigation. They may sometimes be compensated with funds for their information.
- b. **Penal Interest**- Those informants who are acting as an informant in exchange for a reduction in charges or leniency in sentencing.
- c. **Confidential Informant** - These informants include anonymous callers, crime stopper callers and those individuals who call and even though an officer knows their identity, wish to remain anonymous (concerned citizens). These informants often provide good information, but verifying the information and making it reliable is sometimes difficult.
- d. **Professional** - This group of informants involves those individuals who move from jurisdiction to jurisdiction looking to provide information to the police in exchange for money. Almost all professional informants will only provide information and testify in court if they are being compensated by funds.
- e. **Special/restricted** - This group of informants involves juveniles, probation/parole subjects and informants of the opposite sex. Special precautions must be taken with these informants.
- f. **Unwitting** - This group of informants involves those individuals who provide information and intelligence to the police without knowing they are doing so. This primarily involves those individuals who are befriended by an undercover police officer or another informant and provide information to them without knowing they are working with the police.
- g. **Informant Control Number** – A specific, sequential number assigned to confidential informants for identification purposes in reports, payment receipts, and other official documentation.

## D. USE OF INFORMANTS

### a. INITIAL APPROVAL

Before using an individual as an informant, an officer must receive approval from his/her supervisor and the Commonwealth's Attorney. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Employees of this department should not guarantee absolute safety or confidentiality to an informant.

### b. JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

In all cases, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

- a. The juvenile's parents or legal guardians
- b. The juvenile's attorney, if any
- c. The court in which the juvenile's case is being handled, if applicable

d. The Chief of Police or the authorized designee

### c. INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

The Confidential Informant packet can be located (N:\AgencyData\Forms\Numbered Forms\Confidential Informant Forms). This packet should be completed, reviewed, and signed by the appropriate supervisor prior to utilizing the CI. Completed/approved packets will be forwarded to the Criminal Investigations Commander who in-turn will issue the CI a number.

All active Confidential Informants will be audited yearly to confirm compliance with agreement. This audit will be conducted by the CID Commander or his designee.

## E. INFORMANT PAYMENTS

No informant will be told in advance or given an exact payment amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The supervisor will discuss the above factors with the CID Commander and recommend the type and level of payment. Any payments \$100 or more will be approved by the CID Commander.

### a. PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

- a. Payments of \$100 and under may be paid in cash from a buy/expense fund and may be approved by the officer assigned to the informant.
  1. The Unit supervisor shall sign the voucher for cash payouts from the buy/expense fund.
- b. Payments of \$100 or more shall be authorized by the CID Commander and paid from the buy/expense fund.
- c. To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form 176A- HPD CI BUY Report of Expenditure of Special Investigative Funds

1. The cash transfer form shall include:
  - a. Date.
  - b. Payment amount.
  - c. HPD case number/voucher number.
  - d. A statement that the informant is receiving funds in payment for information voluntarily rendered.
2. The cash transfer form shall be signed by the informant, the distributing officer, and a witness.
3. The cash transfer form will be kept in the informant's file and a copy will be placed in a folder to be kept with the expense fund.

## b. AUDIT OF PAYMENTS

The Unit supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

Investigative Funds are subject to audit at any time by the Chief of Police or his designee.

The Professional Standards Unit supervisor will conduct a quarterly audit.

## F. INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

- a. The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Commander or their authorized designees.
  1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential. All correspondence pertaining to the Informant should utilize their Informant Control Number
- b. Criminal activity by informants shall not be condoned and shall be documented if it occurs. This activity could lead to Giglio issues pertaining to the CI. If this occurs, the Office of the Commonwealth's Attorney shall be notified.
- c. Informants shall be told they are not acting as police officers, employees or agents of the Harrisonburg Police Department, and that they shall not represent themselves as such.
- d. The relationship between department employees and informants shall always be ethical and professional.
  1. Employees shall not become intimately involved with an informant. Anytime an officer is utilizing an informant the officer shall ensure that a witness is present for all interviews, contacts and payments. This is to alleviate any integrity issues on behalf of the officer(s) and the Department.
  2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Chief of Police.
  3. Employees shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- e. Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of a supervisor. If so, a recording should be made of the meeting. This only applies to face-to-face meetings and not telephone conversations.

- f. When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.
- g. In all instances when department funds are paid to informants, a receipt itemizing the expenses shall be signed by the CI and officer. The voucher number should be entered into the fund ledger.
- h. Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

#### a. UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Employees who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any employee. The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file “unsuitable” when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

- a. The informant has provided untruthful or unreliable information in the past.
- b. The informant behaves in a way that may endanger the safety of an officer.
- c. The informant reveals to suspects the identity of an officer or the existence of an investigation.
- d. The informant appears to be using his/her affiliation with this department to further criminal objectives.
- e. The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
- f. The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.
- g. The informant commits criminal acts subsequent to entering into an informant agreement.

Officers shall not use informants who are on probation or parole unless use is approved by the informant's Probation Officer and the Commonwealth's Attorney.

#### b. LEGAL USES

- a. Informants may be utilized to provide probable cause for arrest, search warrants and warrantless searches. The officer must be prepared to justify the informant's credibility to the court and why the information is reliable.
- b. Informants may provide reasonable suspicion for traffic stops, detention of individuals and interview of individuals.

- c. Informants may supply intelligence information on future crimes, crimes that have occurred or information on wanted fugitives.
- d. Informants may be utilized to purchase or obtain stolen items, narcotics or any items of contraband or evidence.
- e. Informants can be utilized to testify in court to their knowledge of certain criminal acts.

### c. ESTABLISHING RELIABILITY

- a. The informant has given reliable information in the past to another law enforcement agency or officer.
- b. The informant is a private citizen whom the officer knows or has a reputation for truthfulness.
- c. The informant gives statements against his/her penal interest.
- d. The informant provides information that is corroborated through another independent source or police surveillance.
- e. The informant is willing to testify in court and be named in search warrants and/or probable cause hearings.
- f. The informant is willing or has made controlled purchases of contraband.

## G. INFORMANT FILES

Informant files shall be utilized as a source of background information about the informant, to enable review and an evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of department employees or the reliability of the informant.

The CID Commander or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, CID Commander, appropriate supervisor or their authorized designees.

The CID Commander should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If a supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

### a. FILE SYSTEM PROCEDURE

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

- a. Name and aliases
- b. Date of birth
- c. Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
- d. Photograph

- e. Current home address and telephone numbers
- f. Current employers, positions, addresses and telephone numbers
- g. Primary vehicles owned and registration information
- h. Briefs of information provided by the informant and his/her subsequent reliability
  - 1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- i. Name of the officer initiating use of the informant
- j. Signed informant agreement
- k. Update on active or inactive status of informant
- l. Any contact, to include but not limited to payments, interviews and meetings shall be documented and placed into the informant file.

## **H. DEACTIVATION**

In the event an informant is no longer useful to the Department, is detrimental to the goals and objectives of a case or the Department or is no longer reliable, the control officer shall immediately terminate the relationship with the subject as an informant. The informant should be notified of this action and a contact sheet should be placed in the informant's file stating this. On the outside of the informant's file, the control officer should also note the informant was deactivated, date of deactivation and reason. This will be kept on file for any future reference. The RUSH Drug Task Force and C.H.A.R.G.E. Unit will be notified when a CI is not being used anymore.