Asheville Police Department Policy Manual

Chapter: 10 - Organized Crime
Policy: 1002 - Confidential Informants
Previously: 1640 - Informants

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Introduction

This policy provides protocols and guidelines for the department's use of confidential informants.

Policy Statement

It is the policy of the Asheville Police Department (APD) to use confidential informants to aid in the investigative process. It is the highest priority of APD in operational decisions and actions to preserve the safety of confidential informants, law enforcement personnel, target offenders, and the public.

Definitions

Confidential Informant (CI): an individual who, in an arrangement with law enforcement authorities, agrees to serve in a clandestine capacity to gather information for those authorities on suspected criminal activity or known criminal operatives in exchange for compensation or other consideration.

Confidential Informant File: a file maintained to document all information that pertains to confidential informants.

Handler: the officer primarily responsible for the supervision and management of a CI.

Rules and Procedures

1002.1 Recruitment and Use Considerations

A. All officers who use or recruit confidential informants must be trained in the applicable Asheville Police Department policies and procedures.

B. CIs will not be used without the department's authorization through procedures identified in this policy, including an assigned control number and approval by the Strategic Investigations commander.

C. Confidential informants will only be handled by the Criminal Investigations Division.

    1. Uniformed officers will not work with confidential informants or attempt to use them without the involvement of an assigned detective.

    2. If a uniformed officer has the potential to develop a CI based on an investigation, the officer will forward this information to the Strategic Investigations commander for development and potential assignment.

D. At a minimum, when determining whether a person is suitable to serve as a confidential informant, the following factors will be considered: [6.06 A]

    1. The person's age and maturity.

    2. The risk the person poses to adversely affect a present or potential investigation or prosecution.

    3. Whether the person is a substance abuser, has a history of substance abuse, or is in a court-supervised drug treatment program.

    4. The risk of physical harm to the person, the individual's immediate family, or close associates due to providing information or assistance, or upon the disclosure of the person's assistance. [42.2.6 f]

    5. Whether the person has shown any indication of emotional instability or unreliability, or furnished false information.

    6. The person's criminal history or prior criminal record.

E. No informant under eighteen (18) years of age will be used for any reason. [42.2.6 h] [6.06 A]

F. If the individual is on supervised probation or parole, the assigned handler must coordinate with the informant's probation or parole officer to ensure the use of the informant does not interfere with the individual's release conditions.

1002.2 General Guidelines

A. CIs are assets of the department, not the individual handler.

B. CIs will not be used to gather information about individuals who are not otherwise under investigation or suspicion of criminal conduct unless such information can be verified independently of the CI.

C. When considering whether to utilize CIs and in actually doing so, officers should not: [42.2.6 g]

1. Use an informant if they can obtain the same results by other means.
2. Divulge any more information to an informant than is necessary.
3. Make promises or "deals" with an informant that cannot be fulfilled.
4. Meet a confidential source at a location where the informant will be exposed.
5. Failure to consider the motive and interest of an informant when estimating reliability.

D. Before being utilized, all CIs must sign and abide by the provisions of the department's informant agreement. The primary officer handling the CI must discuss each of the provisions of the agreement with the CI, particularly:

1. Informants are not law enforcement officers. They have no arrest powers, are not permitted to conduct searches and seizures, and may not carry a weapon.
2. Informants will be arrested if found engaging in any illegal activity. They will receive no special legal considerations.
3. Informants are prohibited from engaging in actions or activities that could be deemed entrapment. The meaning of the term and the implications of such actions will be explained to each CI. For instance, CIs will not participate in actions that encourage, persuade, or otherwise motivate a person to engage in criminal activity that the person would have otherwise been unlikely to commit.

4. Every reasonable effort will be made to protect the informant's confidentiality, but upon a judicial order, they may be required to testify in open court.

E. No department member will knowingly maintain a social relationship with CIs or otherwise become personally involved with CIs beyond actions required in the performance of duty. [42.2.6 g] [6.06 A]

F. Officers will not solicit, accept gratuities from, or engage in any private business transaction with a CI. [6.06 A]

G. All meetings with CIs will be conducted privately and with another officer present. Each meeting with a CI must be documented and subsequently entered into the CI's file. [42.2.6 g] [6.06 A]

1002.3 Monetary Payments [6.06 B]

A. Authorized officers may pay approved confidential informants for information or services they provide in relation to a criminal investigation. The criteria used to determine whether payment should be made include the quality of the information or service in terms of its usefulness to the investigation, whether an arrest can be made, and whether a search warrant can be obtained. [42.2.6 e]

B. There are no prescribed payment schedules established by the department; however, all fees and rewards paid to CIs must be commensurate with the value of the information or assistance provided to the department.

C. All CI payments must be approved in advance and accounted for per Policy 1003 - Confidential Funds.

D. The Strategic Investigations commander will ensure that the process for authorization, disbursement, and documentation of CI payments, as well as the accounting and reconciliation of confidential funds, is consistent with department and city policy.

1002.4 Confidential Informant Records

A. The Strategic Investigations commander will be responsible for developing and maintaining a master informant file and an indexing system, and for ongoing maintenance of all informant files. Maintenance of files includes periodic review of source activity, filing activity forms, security of records, and compliance with all applicable records retention schedules. [42.2.6 a,c][82.3.5]

B. The contents of each confidential informant file will include, at a minimum: [42.2.6 b] [6.06 C]

    1. A control number is issued in sequential order every year in two parts – the first year documented and the assigned sequential number, for example: “2024-08” (indicating the eighth source to begin work in 2024).
    2. Name, aliases, date of birth, Social Security number, residential address, telephone number, place of employment, and, if applicable, any gang affiliations.
    3. Height, hair color, eye color, race, gender, scars, tattoos, or other distinguishing features.
    4. Photograph of the informant.
    5. Biographical information and fingerprint card.
    6. Criminal history, if any, including any court-imposed restrictions and statuses.
    7. Summaries or briefs on information provided by the CI and their subsequent reliability.
    8. If known to the officer, whether the informant is currently assisting another law enforcement agency, and if so, what department and officers are involved.
    9. Name of officer initiating use of the informant and any subsequent handlers.
    10. Payment history and information.
    11. Copies of all related, executed forms and authorizing documentation, including a copy of the signed informant agreement (see A-40 Confidential Informant Worksheet and A-41 Informant Agreement).

C. Informant files should be reviewed and updated by the CI’s handler each time a CI is utilized.

D. Informant files may be used for the following purposes:

    1. Provide a source of background information about the informant.
    2. Provide a complete history of the information received from the informant.

3. Enable supervisory review and evaluation of information given by the informant.
4. Minimize incidents that could be used to question the integrity of investigators or the reliability of the CI.
5. Help prevent unwanted duplicate uses of the same CI by officers in this department.

1002.5 Security and Disclosure of Records

A. Informant files will be maintained in a separate, secure area within the Criminal Investigations Division. The Strategic Investigations commander will ensure that information concerning informants is strictly controlled and distributed only to officers and other authorities with a need and a right to such information. [42.2.6 c]

B. All such records are subject to inspection by the Criminal Investigations Division commander. The Strategic Investigations commander must approve all other requests before the review of an informant file.

C. Officers will not remove, copy, or disseminate information from an informant file. All informant files will be reviewed only in designated areas and returned to their secure file location as soon as possible.

D. Officers must carefully avoid providing details of CI actions or involvement in arrest reports and other publicly available documents. Confidential informants referred to in official department reports should never be referred to by name. When necessary, control numbers will be used instead of referencing a name. [42.2.6 d]

E. Officers leaving employment with the department have a continuing obligation to maintain the confidentiality of any CI's identity and the information he or she provided, unless obligated to reveal such identity or information by law or court order.

1002.6 Deactivation and Termination

A. A confidential informant may be deactivated for inactivity or other reasons. CIs may be deactivated for the following reasons:

1. If they remain inactive for two (2) years, or

2. By written request submitted by the investigating officer or a supervisor to the Strategic Investigations commander.

B. A deactivated informant may be considered for future use. If considered for reactivation, the informant packet must be updated. Once the Strategic Investigations commander approves, the confidential informant will be reassigned to the original control number.

C. If continued use of a confidential informant would be detrimental to the goals of the department and/or the safety of its officers, or when a confidential informant is found to be unreliable and, in the opinion of the officer or a supervisor, the confidential informant should not be used further, their continued use will be terminated.

D. Officers must submit a written request to the Strategic Investigations commander detailing the reasons for terminating a CI. Upon approval, the confidential informant's control number will be marked and separated from the active confidential informant files.

E. A listing of terminated informants will be maintained in the master informant file and updated as necessary.

F. Terminated informants are not eligible for future consideration.

G. The Strategic Investigations commander will maintain the files of deactivated and terminated informants under the same security measures as active informant files. [42.2.6 c]

By order of:

Michael Lamb
Chief of Police