



# USE OF INFORMANTS

**General Order Number: 31.1**

**Effective Date: February 13, 2017**

## **I. POLICY:**

The Brookline Police Department recognizes the importance of confidential sources of information. Such sources are often a prerequisite to the successful solution of many crimes, as well as being important in other areas of investigation. They may provide information that results in the prevention of violence or disruption of public order.

The courts have long upheld the use of confidential sources as legitimate and necessary tools for law enforcement to solve crimes and prevent criminal activity. Each police officer should be cognizant of the role of the confidential source and the need to use the source properly.

The use of confidential informants requires detailed documentation and administrative control. All actions by the confidential informant must be carefully supervised to provide uniformity, accountability, and protection to personnel and the department in official actions with confidential informants, and will serve to enhance the effective use of confidential informants.

These procedures attempt a proper balance among several factors: law enforcement's dual needs to utilize information from sources within the criminal community and to protect the confidentiality of these sources, the justice system's requirement that police and prosecutors establish the credibility of informants, and the Police Chief's duty to ensure a system of accountability in the handling of informants.

## **II. DEFINITIONS:**

**A. Source of Information:** Any person who provides information about criminal activity to the police department. This includes, but is not limited to, witnesses, other police officers, anonymous tips, and persons who may reveal information through casual conversation. These persons will not go through the accountability process listed in this procedure unless the officer or their supervisor involved with the source of information needs a record of credibility.

**B. Informant:** A confidential source who:

1. Provides information in exchange for monetary or other lawful consideration;

2. Provides information that's directed by the contact officer to perform certain lawful acts;
  3. By their position or knowledge is solicited by the police department to provide information to which they have access;
  4. Provides information about criminal activity in exchange for consideration in any criminal matters, which are or may be pending against them.
- C. Active Informant/Source of Information:** One who is currently supplying information. Any informant/source of information who has not supplied information for a one year-period shall be considered inactive.
- D. Contact Officer:** A police officer who maintains the ongoing professional relationship with a confidential informant. Any Patrol/other officer using an informant shall contact and be directed by the Deputy Superintendent of the Detective Division regarding proper procedure in using informants.
- E. Entrapment:** Activity on the part of a police officer on behalf of the police department that induces or lures an otherwise innocent person to commit a crime that they did not contemplate committing. It is the implanting of criminal intent in the mind of the person. Acts of persuasion, coercion, trickery, or fraud carried out by law enforcement officers or their agents to induce a person to commit a crime, which they would not otherwise commit.

### III. **ACCOUNTABILITY PROCEDURES FOR SOURCES OF INFORMATION AND INFORMANTS:**

- A.** When a member of the Brookline Police Department has developed a confidential source of information that they intend to use again as an informant, wants to document the use of a source of information, or wants to activate an inactive informant/source of information, the officer shall:
1. Complete a Special Report.
  2. Submit the completed Special Report to the Chief of Police or designee and the Deputy Superintendent of the Detective Division.
    - a.** The completed Special Report should contain:
      1. Background information and necessary biographical data;
      2. Criminal history and record, if any;

- b. If the informant is to work solely for monetary gain, then the Special Report must also contain:
    1. Recent photograph, and;
    2. Fingerprints.
- B. After receiving approval from the Chief of Police or designee for the use of the informant, the contact officer shall:
  1. File the contact officer's copy of the Special Report in the informant file, which shall be kept in a locked cabinet, located in the office of the Intelligence Supervisor, Detective Lieutenant in the Brookline Police Detective Division.
  2. While the contact officer is conducting an active investigation, the Special Report may be stored in a locked drawer at the contact officer's desk. Upon completion of the investigation, the contact officer shall return the Special Report to the Intelligence Supervisor for storage in the locked cabinet in his office.
  3. Initiate instructions to informant. They shall explain the terms of the instructions to informant. Special attention should be given to entrapment and its definition.

The contact officer shall have the informant or source of information initial instructions and sign at the bottom, using his or her code name.
  4. Each informant or source of information shall be advised of the warnings in the instruction on the following situations:
    - a. If they agree to do a controlled buy/introduction;
    - b. Whenever there is reason to believe that they are engaged in serious criminal activity.

The officer shall place his or her signature and the date on the rear of the instructions.
  5. Each time that an informant supplies information concerning an investigation to the contact officer, the officer will complete a report, containing a summary of the information received from the informant, whether or not the information is used at the time received, and a summary of any corroboration of the informant's information.

- a. The original shall be retained by the contact officer in the informant file.
  - b. The copy will be forwarded to the Chief of Police or designee to be placed in the File.
- 6. Introduce the informant or source of information to a second officer, if possible. The informant or source of information should be given the name of the second officer to contact during the times that the control officer is unavailable. This is strongly advised and should be noted on the report.
- 7. Officers shall keep the Chief of Police or designee informed of relations and activities involving informants.
- C. The Chief of Police or designee shall:
  - 1. Determine the suitability of the informant or source of information and indicate approval or disapproval on the Special Report. If the Special Report is incomplete for any reason, the Chief of Police or designee shall weigh the importance to the investigation of the information the informant possesses against the value of the information missing from the Special Report in making their decision regarding the suitability of the informant.
  - 2. If the Chief of Police or designee disapproves the use of the person as an informant, they shall list the reasons for disapproval in the Special Report.
  - 3. If approved, file a copy of the report in the file; return the contact officer's copy to the contact officer. The file copy shall not contain the name, address, or other personal information that could reveal the informant's identity.
  - 4. Ensure the security of the informant's file.
- D. The Contact Officer shall assign an Informant Number and place it on the Special Report.
- E. Exceptions to the above accountability process: A person offering information on a one-time basis in exchange for money may be reluctant to sign the instructions, and there may not be sufficient time for a Special Report to be signed and approved. In this case the Chief of Police or designee may approve the payment. The contact officer will obtain a receipt signed by the informant and will cause a Special Report to be completed with as much information as possible. An Informant Number will be assigned.
- F. **Dismissing Informants:**

1. When behavior of an informant reduces their credibility or does not meet performance criteria, the contact officer will notify the Chief of Police or designee.
  2. If the Chief of Police or designee determines that the informant should no longer be used, a memorandum indicating why the informant was deactivated will be placed in the informant's file.
  3. The informant shall not be used again without the approval of the Chief of Police or designee.
- G.** The Chief of Police or designee shall maintain a secure Master File of all active informants or sources of information, and this information shall be located in a locked file in the offices of the Detective Division.
1. Each file in Master File shall contain the following:
    - a. The Master File Copy of the Special Report;
    - b. A copy of the instructions to informant;
    - c. Copies of all informant contact reports;
    - d. All confidential fund expenditure requests and receipts.
  2. The informant's file shall be maintained for a minimum of ten years after the informant is inactive or disapproved.

#### **IV. PRECAUTIONS WITH INFORMANTS:**

- A.** Officers are to seek and accept only that information which furthers investigative activities and law enforcement responsibilities.
- B.** The informant should be treated considerately, regardless of their character, education, or occupation.
- C.** The investigator should be scrupulous in the fulfillment of all ethical promises, which they have made.
- D.** The informant should never be permitted to take charge of any phase of the investigation.
- E.** Meetings with the informant should not be held at the police station, if possible.

- F.** The circumstances surrounding a meeting should not be repeated to the extent that a recognizable pattern is created.
- G.** The proper name of the informant should not be used during telephone conversations.
- H.** In correspondence with the informant, the police department should never be identified.
- I.** The contact officer should, whenever possible, meet personally with an informant of the opposite sex only in the presence of another officer.
- J.** The contact officer should attempt to determine whether or not the informant is being used by another law enforcement agency and/or officer, to prevent duplication of effort or conflicts.
- K.** In order to avoid the risk that the confidential informant's identity might have to be disclosed in court, or the prosecution dropped if it isn't, officers:
  - 1.** Should not permit the informant to participate in the criminal offense, unless absolutely necessary;
  - 2.** Should not permit the informant to be a witness of the criminal activity, which will result in charges being brought against the suspect.
- L.** The contact officer should attempt to establish the credibility and reliability of information supplied by the informant. Methods include, but are not limited to, assessing any information previously provided, checking with other law enforcement agencies for whom the informant provided information, corroboration of details by other informant or by police investigation, surveillance or the use of controlled test situations. All pertinent information supplied by an informant should be independently investigated. This is particularly important in the early stages of a relationship with an informant to assist in evaluating his or her credibility and reliability.

**V. JUVENILE INFORMANTS:**

- A.** A juvenile informant may only be used if:
  - 1.** Officers have met and discussed the involvement with at least one parent or guardian.
  - 2.** Officers have obtained written permission from at least one parent or legal guardian. In the case of a juvenile whose parents are separated or

divorced, permission shall be obtained from the parent having legal custody.

- B.** When meeting with juvenile informants, two officers should be present.

## **VI. CRIMINAL ACTIVITY BY AN INFORMANT:**

- A.** Informants sometimes gain authority from police officers for participation in activity, which would otherwise be criminal. Such authorization must be carefully considered. Authorization for such activity shall be as follows:

- 1.** The Chief of Police or designee only must approve, the use of an informant for activities, which would otherwise be criminal. The approval should only cover activities in which there is little danger of violence, or corrupt action by a public official is not involved.
- 2.** When authorizing activity, which would otherwise be criminal, the Chief of Police or designee shall attempt to ensure the following:
  - a.** There is minimal effect on innocent people.
  - b.** The informant is not the primary source of technical expertise or financial support.
  - c.** The informant's activity is closely monitored.
  - d.** The informant does not directly profit from his or her participation beyond the plea agreement, or compensation provided by the department.

- B.** Unauthorized Criminal Activity by an informant shall be dealt with as follows:

- 1.** Any officer learning of unauthorized criminal activity by an informant shall notify their Division Deputy Superintendent, who will in turn notify the Chief of Police.
- 2.** The Chief of Police shall:
  - a.** Decide whether or not to delay notification of appropriate law enforcement personnel.
  - b.** Decide whether or not to request appropriate authorities to delay or forego enforcement action.
  - c.** Decide whether or not to continue the use of the informant.





- B.** The accounting system, which documents confidential funding activities will be controlled and operated by the Chief of Police or designee.
- C.** All requests for expenditures from the confidential funding activities will be controlled and operated by the Chief of Police or designee.
- D.** Confidential funds will be paid to an informant only after the Chief of Police or designee has reviewed the amount to be paid the informant and the results of the informant's work.
- E.** An informant may be compensated for information given, services rendered, or expenses incurred. Compensation and accountability shall be as follows:
  - 1.** All plea-bargaining will be conducted by a representative from the District Attorney's Office. All agreements will be placed in writing and entered into the informant's file.
  - 2.** Cash payments will be made as follows:
    - a.** All informant payments should require two officers present. The informant will fill in his or her code name and the amount of the payment on the Confidential Fund Expenditure Report. He or She will also sign his/her code name. This receipt shall then be signed by the witnessing officers. The original shall be placed in the Master File; one copy shall be retained by the contact officer in the informant file.
    - b.** All informants must sign the Confidential Fund Expenditure Receipt when receiving confidential funds. The informants can sign their code name to the receipt.
    - c.** The receipt must be completed in full, listing the reasons the informant is being paid, by whom, and a brief summary of the investigation.
    - d.** Security of Confidential Funds Records. All completed Confidential Fund Expenditure Forms shall be treated as security-sensitive information, and shall not be disclosed to unauthorized personnel.
    - e.** Any payment over five dollars requires a receipt signed by an informant. All cash payments, and any other items purchased for an informant's personal benefit, must be recorded in the informant's file.

- f.** If practical, money will not be paid until the case is completed or the informant is checked.
- g.** All transactions in which an informant receives funds for the purpose of purchasing goods or contraband will be witnessed by two officers, and:

  - 1.** The informant will be thoroughly searched preceding the buy. If the informant's vehicle or residence is utilized in the investigation, a thorough search will also be conducted of those areas to which the informant has access.
  - 2.** The informant will be given funds, which have been recorded by serial number, for the purchase of any contraband. The informant shall not purchase any contraband with his or her personal funds. To avoid error, all personal funds should be taken from the informant prior to contact with the suspect. The personal funds shall be returned to the informant immediately after the purchase.
  - 3.** When possible, constant surveillance will be conducted of the informant after the search and until they meet with observing officers.
  - 4.** After the purchase, the informant shall then be thoroughly searched again. All evidence and narcotic funds will be retrieved from the informant. When possible, the entire process should be accomplished by the contact officer
  - 5.** The informant shall be thoroughly debriefed, and information recorded regarding a complete description of the suspect and a detailed account of all circumstances and conversations involved in the transaction, and any other facts that may be of importance.

## **VIII. ACCOUNTING PROCEDURE:**

- A.** The Chief of Police may establish an accounting system for Confidential Funds Account. This shall consist of a bound ledger book with sequentially numbered pages and the following entries in it:

  - 1.** The informant's number only (no names);
  - 2.** Date of transaction;
  - 3.** Reason for the transaction;

4. The debit or credit made; and,
  5. The balance of the account.
- B.** The account ledger book should run from January 1st. to December 31st. and should be balanced monthly. Further, an annual audit should be performed by the Division Commander of the Detective Division, who will review all receipts to ensure their accurate documentation and transfer of information to the account ledger book. A report of the audit will be submitted to the Chief of Police.
- C.** Departmental funds will not be used for personal use, nor will they be mixed with personal funds.
- D.** All Department funds will be produced upon demand.

# Brookline Police Department

## Instructions to Confidential Sources of Information

Control Number: \_\_\_\_\_

DOB: \_\_\_\_\_

Assumed Name: \_\_\_\_\_

POB: \_\_\_\_\_

**INSTRUCTIONS:** The contributor named above will read each statement. The contributor will be told the purpose and the content of each statement as it relates to the role of the information contributed or to the Brookline Police Department. The contributor will acknowledge the understanding of each by affixing his/her initials at the end of each question. Should there be **any** question by any person witnessing the reading and initialing of each statement regarding the contributor's understanding, the process will be halted and the statement will be further explained.

1. I understand that I am not privileged to violate the law while providing services for the Brookline Police Department. \_\_\_\_\_
2. I understand that I am not to disclose to anyone that I provide services for the Brookline Police Department. \_\_\_\_\_
3. I understand that I am not to carry documents or equipment that may cause another person to believe that I am a police officer. \_\_\_\_\_
4. I understand that I am not to affect an arrest for any violation of the law as part of my services to the Brookline Police Department. \_\_\_\_\_
5. I understand the law regarding entrapment and I understand that I am not to participate in any activity that involves the entrapment of another. \_\_\_\_\_
6. I understand that I am not a police officer, nor am I an agent of the Brookline Police Department. \_\_\_\_\_
7. I understand that I am not to use my services to the Brookline Police Department to resolve personal matters. \_\_\_\_\_
8. I understand that I am to stay in close and frequent contact with the Brookline Police Department's assigned investigator while assisting that agency. \_\_\_\_\_
9. I will immediately report to the investigator any contact I may have of any nature and in any capacity, with any other law enforcement officers. \_\_\_\_\_
10. I understand I may request that a representative of the Norfolk County District Attorney's office be advised of my cooperation. \_\_\_\_\_

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CI's Assumed Name Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Contact Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Alternate Contact Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_