
	LEXINGTON POLICE DEPARTMENT POLICY AND PROCEDURE GENERAL ORDER	Distribution	General Order Number
		ALL PERSONNEL	6.08
		Original Issue Date	Reissue/Effective Date
		01/06/2024	01/06/2024
Order Title: CONFIDENTIAL INFORMANTS	CALEA Accreditation Standard:	Section	
	42.2.6; 43.1.3	6	
		VLEPSC: OPR 02.06	
		Rescinds: OPR 02-06	
Section Title: INVESTIGATIVE FUNCTIONS	 Angela M. Greene, Chief of Police		

This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

I. PURPOSE

The purpose of this general order is to establish guidelines and procedures for the use of confidential informants by Lexington Police Department officers

II. POLICY

Confidential sources of information are a valuable resource for officers when investigating criminal activity. 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. While the use of confidential informants is an effective investigative tool, it can be undermined by the misconduct of the confidential informant or the officer utilizing the informant. Therefore, it shall be the policy of the Lexington Police Department (“Department”) to take precautions by developing sound informant control procedures.

III. DEFINITIONS

Confidential Informant: A person who is not employed as a law enforcement officer and is utilized by a law enforcement agency for active intelligence gathering activity. This person shall freely and voluntarily provide information about criminal activities.

IV. PROCEDURE

A. Informant Files

1. The Detective shall be responsible for developing and maintaining confidential informant files and the master indexing system. All confidential informant files shall be maintained in a secure area with restricted access.
2. Confidential Informant Numbers (CI#s) will be assigned sequentially by the Detective to protect their identity.
3. Officers wishing to establish an informant file will obtain the next open Confidential Information number from the Detective or designee. In conjunction with a request that an information file be generated, the applying officer must submit proof of the following:
 - a. Whether the potential informant is out on bond;
 - b. Whether the informant is on probation or parole;
 - c. Whether the potential informant is a current or past informant for another agency.
4. The confidential informant files shall be utilized in order to:
 - a. Provide a source of background information on the informant.
 - b. Provide a complete history of information received from the informant.
 - c. Enable review and evaluation by the appropriate supervisor of information provided by the informant.
 - d. To minimize incidents that could be used to question the integrity of investigators or the reliability of the informant.
 - e. Provide a record of all currency transactions involving the informant (buys, expenses, payments, etc.)
5. A file shall be maintained on each informant used by officers. Each file may be coded with an assigned informant control number and shall contain the following information:
 - a. Biographical and background information;
 - b. Criminal history record, if applicable;

- c. Payments made to the informants;
 - d. A brief synopsis of the information received from the informant;
 - e. The informant's involvement in any investigation;
 - f. Code number assigned to each informant.
6. An informant history summary, coded with the informant control number, shall be prepared to correspond to each informant file and include the following information:
- a. Pertinent identification data (date of birth, social security number, height, weight, tattoos, etc.).
 - b. Current address.
 - c. Current employer.
 - d. Phone numbers.
 - e. Vehicles.
7. In order to protect the identity of confidential informants, they shall be referred to only by their assigned number in all case reports and documentation outside of the confidential informant file. Officers shall be conscious when referring to confidential informants in reports using gender neutral terms. Only when requested by the Chief of Police, a supervisor, the prosecuting attorney, or a court of competent jurisdiction shall the name of a confidential informant be revealed.
8. Informant files will be kept secure within the Chief's closet. Access to the confidential informant files shall be restricted to the Detective, the Deputy Chief, and Chief of Police. Personnel may review a confidential informant file with good cause and upon approval of the Chief of Police.

B. Use of Informants

- 1. Before using an individual as a confidential informant an officer must receive initial approval from a supervisor. When the confidential informant is cooperating due to pending criminal charges, approval to use the confidential informant shall be obtained from the appropriate Commonwealth Attorney's Office prior to use. After initial approval, an officer shall open an informant file as established in this policy.
- 2. Officers shall compile sufficient information through a background

investigation in order to determine the reliability and credibility of the individual.

3. If a confidential informant file is established and it is later determined the confidential informant is unsuitable for use, their file shall be marked accordingly and their status inactive.
4. Any officer wishing to use a confidential informant that has been deemed unreliable or unsuitable in the past shall receive prior approval from the Chief of Police prior to use.

C. Youthful Informants

1. Subject to the rare exception, it is the policy of the Lexington Police Department to prohibit Department personnel from utilizing individuals under the age of 18 as informants. This Department maintains that exposing those not of the age of majority to risk of life or limb is not consistent with the Department's commitment to public safety.
2. In keeping with this Department's policy exigent only use of Youthful Informants, an officer who wishes to establish an informant status with respect to an under-age individual, must submit to the Commander of the Detective Bureau an articulable, written demonstration of the need for utilization. This written demonstration must detail the exigent circumstances necessitating the use of the under-age informant and must be approved by the Chief of Police or designee prior to utilization
3. Once the need has been demonstrated for utilization of a Youthful Informant, the following procedure will be strictly adhered to during the course of the investigation in which such individual is utilized:
 - a. When utilizing a juvenile as defined in this policy as a Youthful Informant, a Notice of Waiver for participation in the Lexington Youthful Informant Program shall be completed and signed by the parent or guardian giving permission. The parent or guardian shall be kept fully informed as to the use of the Youthful Informant, including the expected duration of the activity, other legal options available, the anticipated police operations involving the Youthful Informant, and the parent/guardian's right to conclude the Youthful Informant activity. Officers shall diligently strive to protect a Youthful Informant from physical or emotional harm.
 - b. When an officer wishes to establish an informant file, they will obtain the next open Confidential Informant number from the Detective Sergeant or designee. This Informant Control Number will be used in all reports concerning the informant in order to maintain confidentiality.

4. The use of a Youthful Informant shall be completed as quickly as possible. To that end, continuous review of an Investigation involving such an informant must be undertaken by the Commander of the Detective Bureau, in consultation with Command Staff on a case-by-case basis.
5. When a uniformed member of this Department has a need for using a Youthful Informant, a member of the Detective Bureau must be present and will work along with the uniformed officer on the case.
6. Once utilization of a Youthful Informant is completed by members of this Department, a complete written report detailing the informant's contribution/involvement with an investigation shall be submitted by the sworn officers assigned such investigation to the Deputy Chief. Such report shall be kept in the Confidential Informant File already established and kept secure in the Detective area.

D. Guidelines for Handling Informants

1. All confidential informants are required to sign and abide by the provisions of the Department's Informant Instructions Form. The officer utilizing the confidential informant shall discuss each of the provisions of the agreement with the confidential informant.
2. It shall be emphasized to the confidential informant that they are not law enforcement officers. They have no arrest powers and are not permitted to conduct searches or seizures, nor will they carry weapons.
3. If found engaging in any illegal activity, confidential informants shall be arrested and their cooperation with the Department shall be terminated. They shall receive no special legal consideration.
4. Confidential informants and officers managing the informant shall ensure they do not engage in entrapment.
5. No member of the Department shall maintain a social relationship with a known confidential informant while on or off duty or otherwise become personally involved with confidential informant. Members of the Department shall not solicit, accept gratuities, or engage in any private business transaction with an informant. Exceptions may be granted for confidential informants utilized for alcohol/tobacco compliance as they may be relatives or friends of an officer.
6. Two officers should be present when meeting with any confidential informant. Any deviation from this practice shall be approved by a supervisor. Officers are prohibited from meeting alone with confidential informants of the opposite sex.
7. Officers shall not make promises that will not or cannot be kept.

8. Confidential informants shall never be allowed to dictate the direction of an investigation and shall only be informed of case details that are crucial to their successful cooperation.
9. Officers and supervisors shall ensure that each informant is handled in accordance with all court mandates, rulings, or policies, regulating their use.

E. Use of Probationers and Paroles

1. Police officers shall not allow a parolee or probationer to become a confidential informant without prior approval of the Chief of Police, and the appropriate prosecuting attorney's office. When applicable, the appropriate prosecuting attorney's office shall obtain approval for a probationer to cooperate from the sentencing court. When applicable, the appropriate prosecuting attorney's office shall obtain approval for a parolee to cooperate from the Department of Corrections. The use of parolees and probationers as confidential informants can only be justified by the most compelling circumstances.
2. Officers shall not make any promises, threats, or inducements to parolees or probationers for the purpose of involving them in any active intelligence gathering activity.
3. Federal parolees may not be used as informants without a waiver from the Federal Parole Commission.
4. Federal probationers may not be used as informants without a waiver from a Federal Court.
5. None of the above shall be construed to eliminate the use of parolees and probationers from providing general information as to criminal activities freely and voluntarily.

F. Confidential Expenditure Fund (Buy Account)

1. Personnel assigned to the Detectives shall have access to a Confidential Expenditure Fund (Buy Account) to be used for undercover purchases of narcotics and other contraband, payments to informants and other expenses directly related to vice and organized crime investigation.
2. Responsibility for management of the Confidential Expenditure Fund shall rest with the Detectives. Requests for funds will be submitted to the Administrative Lieutenant or their designate prior to payment. Expenditures in excess of \$200.00 (Two hundred dollars) must be approved by the Chief of Police or designee.

3. Criteria for payment of investigative expense funds to confidential informants shall be determined on a case by case basis by the Chief of Police. Payment criteria may include but not be limited to the following:
 - a. Usefulness of the information.
 - b. Time commitment of the confidential informant.
 - c. Amount of information provided.
 - d. Whether the confidential informant is receiving any other benefit such as consideration on pending charges.
4. The Detectives shall also be responsible for the day-to-day operation of the fund and will be responsible for documenting each expenditure from the fund. The documentation will include:
 - a. A signed and numbered receipt showing the amount and purpose of each payment;
 - b. The code number of the informant to whom the payment was made
 - c. The date of the expenditure;
 - d. Officer's name;
 - e. Synopsis of what the money was used for;
 - f. A ledger sheet showing each expenditure, in sequential order.
 - g. Case number the expenditure was connected to.
5. Guidelines for Payment of Cash Compensation to Confidential Informants
 - a. No Confidential Informant (CI) shall be placed on salary or retainer.
 - b. Compensation shall be authorized only when the information provided has been verified as to value, accuracy and completeness.
 - c. Officers shall not make payments to a CI on their own initiative from department funds, personal funds, or other sources.
 - d. The amount of compensation may reflect the difficulty or danger, or lack thereof, associated with securing the information and its value to law enforcement objectives.

- e. Each payment shall be witnessed by two officers and documented as to the amount, basis for payment and CI identity.
 - f. The informant shall be identified only by assigned code number and a signed receipt.
 - g. All records related to informant payments will be retained.
 - h. All payments to informants will be documented on the Informant Payment Receipt Form.
 - i. In some cases, an informant may refuse to sign a receipt for monies paid.
 - j. A reluctant informant should be urged to sign with at least the CI code number to acknowledge payment.
 - k. A receipt must be completed for each payment. A copy of the Informant Payment Receipt Form shall be forwarded to the Detectives after each disbursement.
 - l. A copy of the Informant Payment Receipt Form will be maintained with an expense report or case preparation report and with the Informant Contact Sheet and Informant Registration Form that is retained by the Detective Sergeant.
6. The Detectives shall submit an audit and a report of expenditures of the Confidential Expenditure fund to the Chief of Police on an annual basis.