

SANTA CLARA POLICE DEPARTMENT GENERAL ORDER 42.3

INFORMANT CONTROL POLICY

AMENDED DECEMBER 2014

42.3.1 General Informant Information / Practices

Informant Use

The Santa Clara Police Department recognizes that informants are an effective tool in law enforcement. Police Officers are encouraged to develop criminal intelligence information through the recruitment and proper management of informants.

Informants Defined

For the purposes of this policy, the term “informant” shall include those persons who provide information about criminal activity and/or actively assist law enforcement under the specific direction of a police officer for reasons other than good citizenship. These informants usually have some expectation of compensation or consideration.

Selection of Suitable Informants

Not every person contacted is a suitable candidate for an informant. The Department’s overall responsibility to the community must be balanced against the need to gather criminal intelligence. As a general rule, persons charged with crimes of serious violence or sexual misconduct (other than prostitution related offenses) should not be considered as potential informants.

Management/Control of Informant

The use of informants to assist SET (Specialized Enforcement Team) is allowed with the permission and at the discretion of the SET Sergeant, Investigations Lieutenant and Captain.

Authorization to Use Informants

No Patrol Officer / Detective shall use the services of an informant without the explicit permission of the SCAT Sergeant, Investigations Lieutenant or Captain. The SCAT Sergeant will determine which SCAT / SET Detective will be assigned to “handle” individual informants. This assignment is subject to change at the discretion of the SCAT Sergeant. Informants loaned to other Divisions for investigations will continue to be the responsibility of the assigned SCAT / SET Detective and this Detective will assist in these investigations.

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Patrol officers will normally not be assigned to “handle” informants. Exceptions may be made for unusual or unique situations, however, and for those cases detailed instructions will be obtained from either the Investigations Lieutenant or Captain as to how the situation is to be handled. Police Officers are encouraged to develop criminal intelligence information through the use of good citizenship.

Relationship of Agents with Informants

It is the policy of this Department that the relationship between Detective and the informant is of a completely ethical and professional nature. Fraternalization with an informant in any way other than in an official capacity is strictly prohibited.

When contacting informants, Detectives shall have another officer present. This is of particular importance when meeting with informants of the opposite sex. Only during actual undercover situations may a Detective be alone with an informant.

The Detective shall not accept any gifts or gratuities from an informant or engage in any business or financial dealings with the informant.

All off-duty contact (other than telephone) with informants must be reported to the SCAT Sergeant or Division Lieutenant/Captain.

Confidential informants should be introduced to a minimum number of police personnel. The confidential informant should be exposed to as little information about our personnel or operation as possible. Informants shall not be given home phone numbers or addresses of police personnel.

Revealing the Identity of an Informant

The District Attorney’s office, in concurrence with the SCAT / SET Sergeant, Division Lieutenant or Captain, will determine whether the informant’s identity should be revealed. No Detective, without the above approval, shall refuse to reveal the identity of an informant when testifying in court when ordered to do so by the presiding judge or magistrate. Detectives may request an in-camera hearing on revealing the identity of an informant. If a conflict does arise as to whether or not to reveal an informant, the matter will be resolved by the Division Lieutenant or Captain.

Use of Parolees or Probationers as Informants

At the present time, parolees may not be used as informants. The SCAT Sergeant, Division Lieutenant or Captain must approve the use of probationers as informants. Unless unusual circumstances exist, Detectives must get approval from the probation officer prior to utilizing probationers as informants.

Nothing in this section prohibits an officer from obtaining criminal intelligence information only, from a parolee or probationer, during an initial interview.

Juvenile Informants

The use of juveniles as informants should be avoided. If an investigation necessitates the use of a juvenile, prior approval must be obtained from the SCAT Sergeant and the Division Captain. Approval must also be obtained from the courts or parents/guardian, whichever is applicable.

Officers seeking to use a juvenile as an active informant will obtain written, signed permission from the parent or a guardian of said juvenile. The content of the document must include, in general terms, the type of activity the juvenile is expected to perform. In the case of a juvenile who is a ward of the court, written permission must be obtained from the Court. If the juvenile has a probation officer, they must be contacted prior to using the juvenile as an informant.

Nothing in this section prohibits an officer from obtaining criminal intelligence information only, from a juvenile, during an initial interview.

Informants with Pending Criminal Matters

Department members interviewing a potential informant with a pending criminal matter shall not make any promises, actual or implied, as to the eventual sentence or disposition in the informant's case. Only the courts and the District Attorney may enter into agreements that affect the outcome of a defendant's case. Detectives shall not make any independent agreements for assistance or compensation with informants.

In the event an attorney in any criminal matter represents an informant, the attorney must be contacted prior to the informant's services being utilized.

Processing the Case (Arresting Officer)

Officers who have arrested an informant or a potential informant for a criminal violation, other than a warrant, will report all details of the arrest in an Offense Report. Reports shall be forwarded to the District Attorney's Office without unnecessary delay. The decision to delay prosecution in an informant's case rests with the District Attorney's Office.

Informants Release When Charged with Crimes

Officers seeking the release of potential informants from custody will obtain approval from the SCAT Sergeant, Division Lieutenant or Captain before the release.

A Detective may not apply to the court for a temporary release from custody without the permission of the SCAT Sergeant.

Citation Release of Informants Charged with Crimes

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When a potential informant has a pending criminal matter where a citation would normally be an appropriate option, the SCAT Sergeant or a Detective may authorize the release of an informant from custody, with a citation, to aid in criminal investigation.

Rewarding Informants Charged With Crimes: (Pending Cases)

When an informant with a pending criminal case has cooperated in a criminal matter, the extent of assistance may be brought to the attention of the court and the District Attorney. When it is a Detective's intention to recommend this type of reward, the following steps must be taken:

Prior approval from the narcotics unit of the District Attorney's office must be obtained. Only in unusual circumstances will an informant who is to be rewarded in this manner be used before approval is obtained. In these unusual circumstances the District Attorney's office must be notified as soon as possible.

Any contact with the court must be made after the narcotics unit in the District Attorney's office has been notified and the SCAT Sergeant, Division Lieutenant or Captain has approved such contact.

If the pending case is from another jurisdiction, that agency must also grant permission to use the informant if the intention is to recommend consideration in that agency's case.

Rewarding Informants Charged With Crimes: (Paid)

It is the responsibility of the Division Captain to determine the appropriate amount of payment to informants.

All payments to informants must have the prior approval of the Division Captain.

WSIN Checks on Informants

The Detective assigned to the informant is responsible for making WSIN inquiries on all informants they utilize, even if they are solely for information purposes.

Unreliable Informants

If it is determined that the informant is unreliable, our Department shall immediately cease using that informant. The Detective assigned to the informant will submit an unreliable informant card to WSIN and notify any other known criminal justice agency that may be affected by the informant's unreliable information.

Tracking of Informants

It is the responsibility of the Detective assigned to the informant to make reasonable efforts to stay updated as to the whereabouts of the informant until all cases involving the informant have been adjudicated.

SCAT Office

With very rare exception, no informant shall be permitted in the SCAT office or apprised of its whereabouts.

Informant Buys

When an informant purchases evidence, other contraband or otherwise expends Department funds, the following guidelines will apply:

- All informant buys will be under the direct control of an SCPD Detective.
- Anytime funds are provided to an informant, at least two officers must be present to witness the furnishing of funds. These two officers will sign and witness the expenditure of funds on a voucher.
- All funds must be pre-recorded prior to the buy.
- The informant should be fitted with a transmitting device, unless circumstances preclude its use.
- The informant shall be searched for contraband and money by the Detective or his/her designee prior to the buy. This would include a search of the informant's vehicle. Constant visual surveillance should be maintained on the informant (whenever possible) during the buy in order to ensure that any evidence or contraband came from the buy location.
- The informant should again be searched for contraband after the buy. This would include the informant's vehicle. Debriefing the informant should also take place immediately following the buy.

42.3.2 Informant File Forms

Personal History Form and Conduct of Confidential Informant Form

Prior to the utilization of an informant, Detectives must have supervisory approval and shall submit an Informant Personal History Form for written approval. The Informant History Form, in all instances, must be submitted no later than five days after verbal approval has been given. The Informant Personal History Form will be retained in the individual informant file and **shall** be accompanied by the Conduct of Confidential Informant Form. This form must be explained by the Detective to the informant and the informant must initial each item and sign the bottom of the form. No informant shall be used prior to the completion of the Conduct of Confidential Informant form.

Informant Performance Record

An Informant Performance Record is to be maintained on every informant. This record is to be retained in the individual informant files. The record shall include a listing of all cases the informant has been involved in and record any monies paid to the informant. It shall also include any other consideration the informant has received. The individual Detective assigned to the informant is responsible for the timely upkeep of the record.

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When an informant is transferred to the INACTIVE file, the assigned Detective will add a short summary as to what the informant did and whether he/she is eligible to be used in the future.

Individual Informant Files

The SCAT Sergeant shall maintain the Confidential Informant File of all informants working for that unit. This file will contain the Personal History Sheet, the Conduct of Confidential Informant Form, photograph of the informant, fingerprints of the informant (if not already on file), an Informant Performance Record, copy of NCIC, CLETS and local warrant inquiries, copy of DMV inquiries, copy of criminal history and any correspondence or other relevant information concerning the informant. The SCAT Sergeant will insure that the Intelligence Sergeant is provided with a complete list of all informants so a master list for the Department can be kept in a central location.

In like manner, the Intelligence Sergeant shall maintain the Informant File for all informants being used by that office. The SCAT Sergeant shall be notified of the names of all informants being used by the Intelligence Sergeant, and in this way both units using informants will be kept apprised at all times of the names of all current informants in the Department.

These files are to be maintained in a secure, locking cabinet and separated into ACTIVE and INACTIVE sections.

Each confidential informant will be assigned a C/I number and thereafter, in case reports or other correspondence, the individual will be referred to by that number only. The information will be considered confidential and will only be released to members of the Santa Clara Police Department on a need-to-know basis. With the authority of the Investigations Division Commanding Officer, information may be released to other law enforcement agencies that are working on related cases, but only when necessary for effective enforcement.

Informant File Review

It shall be the responsibility of the Division Lieutenant or Captain to review the informant files on a regular basis. Either individual will review for completion of the forms on a timely basis (Personal History Form, Informant Performance Record, etc.) and to ensure the informant control policies are being adhered to.

Attachment A

SANTA CLARA POLICE DEPARTMENT
C/I PERSONAL HISTORY
FACE SHEET

NAME: _____ C/I #: _____

DATE INITIATED: _____ DET: _____

DATE CLOSED: _____ DET: _____

Required documents and checks: (initial when completed)

_____ Recent Photograph _____ Fingerprint Card

_____ Local & CII Record _____ DMV History

_____ Warrant Check _____ WSIN Check

_____ Parole/Probation Status:
Parole/Probation Officers Name & Agency

_____ Pending Case? yes/no
Violation:
Agency:

_____ Custody Status: (circle one)
Bail
O.R.
Citation
N/A

_____ Prior use as C/I yes/no
Agency:
Date:

Approved for use: _____ Date: _____
Unit Sergeant

Lieutenant Quarterly Review: _____/_____/_____/_____
initial and date

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Attachment B

**INFORMANT PERSONAL HISTORY FORM
SANTA CLARA POLICE DEPARTMENT**

DATE: _____ C/I# _____

NAME: _____
 Last First Middle

AKA'S _____

ADDRESS: _____
 Home Street City State Zip

PHONE: _____ CELL: _____

ADDRESS: _____
 Home Street City State Zip

PHONE: _____

ADDRESS: _____
 Business Street City State Zip

PHONE: _____

NAME OF EMPLOYER: _____

ADDRESS: _____
 Business Street City State Zip

PHONE: _____

NAME OF EMPLOYER: _____

OCCUPATION: _____

DESCRIPTION:

DOB _____ Height _____ Weight _____ Hair _____ Eyes _____ Race _____
Scars _____ Tattoos _____

D/L# _____ SS# _____

FBI# _____ PFN _____

CII# _____ SCPD _____

VEHICLES:

License _____ Make _____ Model _____ Year _____ Color _____

Registered Owner _____

License _____ Make _____ Model _____ Year _____ Color _____

Registered Owner _____

Attachment B: Continued

FAMILY/RELATIVES:

Name _____ Relationship _____

Address _____ Phone _____

Name _____ Relationship _____

Address _____ Phone _____

ASSOCIATES:

Name: _____ Address _____

Name: _____ Address _____

Informant

Motivation: _____

Photograph

ADDITIONAL INFORMATION/CLOSURE SUMMARY:

SUBMITTING DETECTIVE: _____ DATE: _____

Attachment C

SANTA CLARA POLICE DEPARTMENT
CONDUCT OF CONFIDENTIAL INFORMANT

I, _____, have freely decided to cooperate with and to assist the Santa Clara Police Department (SCPD). In doing so, I fully understand that I am forbidden to:

_____ Participate in any unlawful conduct or investigation unless directly supervised by an SCPD Detective.

_____ Use my association with the SCPD to resolve any personal matter.

_____ Disclose to anyone my association with the SCPD unless in answer to a subpoena.

_____ Carry any document or equipment, which connote the law enforcement field.

_____ Carry any weapon or firearm while assisting the SCPD.

_____ Use my sex to induce or persuade any person to sell drugs or commit any other crime, while working for the SCPD.

_____ Handle/purchase/use any controlled substance, dangerous drug, marijuana or any other substance purported to be same, without specific authorization to do so by a Police Officer from the SCPD.

_____ Further, I understand that any conduct arising from my action in violation of the above circumstances will result in an investigation of the incident and if the charges are substantiated, appropriate action (including criminal prosecution) will be taken.

_____ I will not engage in any activity that would constitute entrapment, or that would persuade a person to commit a crime they would not ordinarily commit.

_____ I further understand that I am not a Police Officer or an employee of the SCPD

_____ I have agreed to cooperate with the Santa Clara Police Department of my own free will and accord, and not as a result of any intimidation, threats, or promises.

_____ I understand that I will be searched before and after any controlled buys.

_____ I agree to testify truthfully in future court proceedings concerning cases in which I might participate.

_____ I agree to follow instructions of the Detective while assisting in the investigations.

_____ I understand that in exchange for any consideration on a pending case I agree to:

_____ In agreeing to work with the Santa Clara Police Department, I understand that no Police Officer may make any explicit or implicit promises or predictions regarding the likely disposition of any criminal proceedings that are pending against me. The Officer will provide the District Attorney’s Office with information regarding my assistance to the Santa Clara Police Department and the degree to which I fulfilled my portion of the agreement.

_____ I hereby release and acquit the Santa Clara Police Department and their officers from any injury or liability which I may suffer or sustain in the future as a result of these investigations.

_____ I will, until all cases are completed, notify SCPD of my whereabouts.

SIGNED: _____ DATE: _____

DETECTIVE: _____ DATE: _____

WITNESSED: _____ DATE: _____

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Attachment D

SANTA CLARA POLICE DEPARTMENT
INFORMANT PERFORMANCE RECORD

DATE	TRANSACTION	LOCATION	AMT. PD	CASE #