



# DESCHUTES COUNTY SHERIFF'S OFFICE

Policy Title: <b>Confidential Informants</b>	Effective Date: June 29, 2016	Policy Number: <b>7.12</b>
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Attachments:	L. Shane Nelson, Sheriff	

## I. PURPOSE

The purpose of this policy is to provide regulations for the control and use of confidential informants.

## II. POLICY

Confidential informants have access to criminal activity and organizations that law enforcement frequently cannot otherwise obtain through the use of undercover agents or other investigative techniques.

In many instances, a successful investigation cannot be conducted without the use of confidential informants. While the use of confidential informants is an effective tool in investigations, it can be undermined by the misconduct of either the confidential informant or the deputy utilizing the confidential informant.

Therefore, it shall be the policy of the Deschutes County Sheriff's Office to take necessary precautions developing sound confidential informant control procedures. All information regarding confidential informants will be closely protected and handled in a manner that will preserve that confidentiality.

## III. DEFINITIONS

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

*Confidential Informant* means any person (named or unnamed) giving information to Deschutes County Sheriff's Office detectives regarding criminal activities where, if the identity were to become known, such exposure could jeopardize an investigation or jeopardize the safety of any person.

*Informant Managers* is any detective who develops and supervises a confidential informant.

## IV. PROCEDURES

### A. Establishment of an Informant File System

The Detective Supervisors shall be responsible for developing and maintaining the master confidential informant file and indexing system.

1. Confidential informant files shall be kept locked at all times. The Street Crimes Unit Supervisor will maintain a key to the confidential informant files. Detectives may have access to the confidential informant files when an investigation dictates.

2. Members may not access any files relating to informants other than their own without the approval of the Street Crimes Unit Supervisor or the Detective Captain.
3. The assigning of confidential informant numbers, and the filing of confidential informant packets, debriefs, confidential informant logs, payment receipts and cases generated by the confidential informant will be completed by the Detective Supervisors.
4. Informant Managers will make sure they give all confidential informant information to the Street Crimes Unit Supervisor for filing.
5. The Detective Supervisors shall be responsible for entering the data from receipts onto the confidential informant log. The log will be updated after every operation that the confidential informant is involved in.
6. A confidential informant numbering index will be kept in the confidential informant file cabinet. The Street Crimes Unit Supervisor will ensure that it is kept up to date.
7. A copy of every receipt showing money paid to the confidential informant will be kept in the confidential informant file. These receipts will record any money given to confidential informants, including rewards, expenses, salaries, or for the purchase of evidence or information.
8. A file shall be maintained on each confidential informant used by Sheriff's Office members. Files relating to confidential informants who are deemed to be unreliable will also be maintained in the confidential informant file cabinet. Each file shall list the confidential informant's true name, assumed name, assigned number, and shall contain the following information:
  - a. confidential informant packet consisting of an Informant Checklist, Informant Identification Records, a Confidential Questionnaire, and a Consent Form;
  - b. signature of approval for use by a Detective Supervisor;
  - c. the informant's confidential identification number, photograph, criminal history, a copy of his/her fingerprints (unless they are already on file at the Deschutes County Adult Jail), and the assumed name;
  - d. confidential debriefs provided by the confidential informant;
  - e. a log of all activity and confidential funds expenditures associated with the confidential informant;
  - f. ORS 161.275 (Entrapment) shall be reviewed with the confidential informant and the confidential informant will initial that he has read the Entrapment statute. A copy of the statute is in the confidential informant packet;
  - g. signature of confidential informant's true name and assumed name;
  - h. written authorization required as a result of the confidential informant's status as a corrections client, juvenile or defendant;
  - i. any administrative correspondence pertaining to the informant, including documentation of any representations made on his behalf, or any other non-monetary considerations furnished; and
  - j. deactivation information, when appropriate, including the reason.
9. Confidential informant files shall only be maintained at the Detective Division Offices in Bend.

Confidential informant files are kept in a secure location.

No other confidential informant files will be kept at any other office and Informant files are not to be removed from the Detective Division Offices except in response to a subpoena requiring their presentation to the court, or at the direction of the Detective Captain.

Working investigative case files may be kept at other offices until the case is closed.

#### **B. Confidential Informant Management and Use**

1. No confidential informant will be used as an operative (active participant in an investigation), without the approval of a detective supervisor.

2. A careful and thorough evaluation of the complete background of the confidential informant shall be undertaken. This evaluation should be balanced against any potential investigative benefit that may be derived from the confidential informant. Normally, all the items listed in IV Procedures, A, 8 are required unless the Street Crimes Supervisor authorizes a specific waiver.

3. The use of juvenile confidential informants is discouraged due to a number of risks. They will only be used when the investigation is of such a nature as to justify the risks.

The District Attorney should be consulted and a parent's or legal guardian's written consent shall be secured.

Final approval to use a juvenile confidential informant must be obtained from a Detective Supervisor and the Detective Captain.

4. Mentally ill or mentally incompetent confidential informants shall not be used.

5. Payments will not be made to confidential informants until a confidential informant packet is completed and approved by a detective supervisor.

6. At the time a confidential informant is signed up, it will be documented in the confidential informant file as to whether the confidential informant is going to be named or unnamed.

7. No confidential informant will be allowed to drive when under the direction of the Sheriff's Office without proof of a valid driver's license and valid insurance.

8. If appropriate, case agents should consider written contracts between the confidential informant and the District Attorney's Office.

9. Any funds given to the confidential informant for the purchase of contraband or other evidence shall be recorded by serial number or photocopied.

The confidential informant shall not purchase any contraband or other evidence with personal funds.

To avoid any error, any personal funds should be taken from the confidential informant prior to contact with the suspect. The personal funds will be returned to the confidential informant immediately upon the conclusion of the covert contact.

10. At least two law enforcement officers will be present during any meetings or suspect contacts with a confidential informant.

11. Whenever possible, the confidential informant will be equipped with a transmitting device to record any conversation between the confidential informant and the suspect(s) and to provide corroboration. A detective supervisor must give prior approval for exceptions to this provision.

12. All contacts with confidential informants must be conducted on a professional basis only. Personal business, social, or romantic relationships between Sheriff's Office personnel and confidential informants are strictly prohibited.

Confidential informants who have a personal or family relationship with a Sheriff's Office employee will be assigned to a deputy or detective who does not have the relationship.

13. Confidential informants, and when applicable, their vehicles, residences, or surroundings, shall be thoroughly searched both before and after participating in a controlled meeting, purchase of evidence, or other enforcement activity.

14. Confidential informants will not be permitted to carry firearms or other weapons during undercover operations (even if authorized by state or local authorities to carry a weapon).

15. A detective supervisor shall be informed of all communications between confidential informants and investigators.

16. Generally, confidential informants are not to be contacted at Sheriff's Office facilities during the time they are under control of agency personnel. Meetings should be arranged at neutral locations so as not to compromise the informant's status or the investigation.

17. The approved confidential informant packet will be utilized for all confidential informants and will include the confidential informant admonishment that:
  - a. he shall not violate the law in the gathering of information for the Sheriff's Office and that violations will be reported to the appropriate investigating agency and prosecuting authority with jurisdiction over the offense.
  - b. he has no official status and no police power.
  - c. the information he provides may be used in a criminal proceeding. Confidentiality cannot be guaranteed, but the Sheriff's Office will use all lawful means to protect his identity.
18. A written operations/safety plan will be submitted to and approved by a detective supervisor before any controlled meet between a confidential informant and a suspect.
19. Payments to confidential informants, including money used to purchase evidence, will always be made in the presence of another law enforcement officer who will sign the receipt as a witness.

### **C. Consideration of Confidential Informants**

When considering the use of a confidential informant the following will be considered:

1. The confidential informant will not likely compromise Sheriff's Office interests in any investigation.
2. The criminal history of the confidential informant.
3. Potential for violence.
4. Health concerns (heart, pregnancy, etc.).
5. Motivation.
6. Truthfulness.
7. Age.
8. Relationship with a law enforcement employee.
9. Risk of harm to the confidential informant or confidential informant's family.
10. All available criminal indices will be checked, such as the unreliable informant files at WSIN and the Oregon Department of Justice. Credibility will be verified with other agencies that have used the informant, including other jurisdictions where informant has lived.

If the informant does not have a verifiable Oregon SID or FBI number, a fingerprint check is required using a new set of prints. The informant may be used on a provisional basis while waiting for the response from the FBI. The Detective Supervisors may waive the requirement for a new set of prints in situations where there is no doubt about the identity and criminal history of the proposed informant.

11. For all active informants, the case agent should review the informant file on a quarterly basis for accuracy and refresh the CCH and NCIC checks. When a material fact that was previously reported in the confidential information packet is no longer accurate, (e.g., a change in criminal status, living arrangements, associates, or issues relating to the informant's reliability and availability, etc.) or if the new criminal indices checks reveal new material information, the file should be updated and the status of the informant reviewed by a Detective Supervisor for re-approval.

### **D. Use of Confidential Informants on Probation or Parole**

1. The sentencing judge must alter the conditions of probation prior to using a confidential informant on probation.
2. For those confidential informants on probation or parole, signed permission must be obtained from the probation or parole officer and District Attorney.

### **E. Defendant Confidential Informants**

Defendant confidential informants must be authorized by a prosecutor having jurisdiction unless exigent circumstances exist where prior authorization is not possible, and then only with a detective supervisor's approval. In these cases, the confidential informant is to be informed that his cooperation and efforts are to show his good faith and reliability and there is no guarantee of leniency in his pending case. Only a prosecutor can agree to consideration of charges when using defendant informants.

### **F. Confidential Informant Payments**

1. Any payments to confidential informants, including rewards, the purchase of information, expenses, or for the purchase of evidence will be completed in accordance with the provision of the Sheriff's Office [Policy 3.50 Confidential Funds](#).
2. Requests for long term buy programs, leasing of vehicles, rent for housing, utilities, etc., must be submitted in writing to Street Crimes Unit Supervisor for approval. The proposal will outline the term of the operation, what is to be accomplished by the operation and the estimated total costs associated with the operation. Once the Street Crimes Unit Supervisor approves the proposal, the proposal will be forwarded to the Detective Lieutenant for approval.

### **G. Confidential Informants and Confidential Informant Files Review**

1. Detective supervisors must oversee the handling of active confidential informants, which includes quarterly reviews and consideration of deactivations.
2. The Street Crimes Unit Supervisor will conduct quarterly reviews of all active confidential informants. This review will include a memo to the Detective Captain outlining the following:
  - a. total money to date received by the confidential informant;
  - b. a check of the criminal history and law enforcement contacts;
  - c. brief review of the confidential informant's progress and successes;
  - d. a review of all receipts and documents in the confidential informant folder, including copies of reports, search warrants and case numbers associated with the confidential informant's successes;
  - e. confirmation that addresses, phone numbers and other personal history are current;
  - f. documentation supplied as to whether WSIN, DEA, CODE, or HIDTA funds were used to pay confidential informant or for the purchase of evidence; and
  - g. recommendations to deactivate the informant or that the informant is approved for continued use.

### **H. Deactivation Considerations**

Confidential informants may be deactivated for lack of productivity or for other cause. The case agent must notify a detective supervisor when any of the following occur:

1. The confidential informant no longer has the potential to furnish information or services that could lead to significant prosecution.
2. The confidential informant is no longer willing to cooperate.
3. The confidential informant's cooperation has been determined to be unsatisfactory.
4. The risk of using the confidential informant outweighs the potential benefit to the Sheriff's Office.
5. There is probable cause to believe the confidential informant has committed a felony offense since his establishment.
6. The confidential informant failed to obey the instructions from the controlling investigators regarding his conduct in an investigation.
7. The confidential informant has absconded with Sheriff's Office equipment, funds or other personal property.

8. A law enforcement officer, prosecutor or judge has accused the confidential informant of perjury.
9. The confidential informant is believed to have withheld or fabricated evidence in an investigation.
10. The confidential informant has compromised an investigation.
11. The confidential informant engaged in behavior that is likely to endanger law enforcement personnel or operations, poses a threat to public safety, or creates or poses a threat to create adverse publicity or embarrassment for the Sheriff's Office.
12. The confidential informant has not been utilized in the last 90 days (last quarter).
13. Any other reason the detective supervisor or case agent feels is in the best interest of law enforcement or the Sheriff's Office.

Once an informant is deactivated, a memo outlining the reasons for deactivation will be completed and forwarded to the Detective Lieutenant. The Detective Lieutenant will review the memo and place the memo into the confidential informant's files. If the informant is deemed to be unreliable, a notification to that effect will be forwarded to WSIN and the Oregon Department of Justice, Criminal Justice Division.