
Section: THREE
Chapter: TWENTY-ONE

SUBJECT: Confidential Informants
ISSUE DATE: 03-21-16
REFERENCE: NYSA 50.5

I. PURPOSE

The purpose of this policy is to establish procedures governing the development, use and categorization of informants.

II. POLICY

The Palmyra Police Department encourages the development and use of informants; those who wish to provide information related to criminal matters or who wish to provide intelligence information related to possible future criminal activity. This policy will insure the proper procedure and legal use of informants by members of the Palmyra Police Department.

III. CATEGORIZATION OF INFORMANTS

- A. **Private Citizen**--is any person who provides information to any member of the Department with or without the expectation that his/her identity will remain confidential.
- B. **Defendant Informant**--is a defendant in a pending Federal or State case who expects compensation for providing assistance (either in the form of protective or judicial consideration).
- C. **Restricted Use Informant**--is any person who:
 - 1. Is less than sixteen years of age.
 - 2. Has been declared an unreliable informant.
 - 3. Is currently on Federal or State probation or parole.
- D. **Paid Informant**--is any person receiving monetary gain for services or information provided to the Department.

IV. PROCEDURES

- A. Activation and Identity of Informants.
 - 1. Upon receipt of information from a person fitting categories B, C, and D above, personnel will complete an *Informant Personal History Report*. Said report will be forwarded to and maintained by the Officer assigned to narcotics Investigations. See attached *Informant Personal History Report*. A photo of the informant will be taken and attached to the Report.
 - 2. The informant shall read and sign the *Voluntary Affidavit Statement* (attached), attesting to the fact that all information/cooperation is being provided voluntarily.
 - 3. The Officer will assign a confidential informant (CI) I.D. number to identify the informant and file same in an informant file. All subsequent information received from

the informant shall be documented on a *Confidential Informant Contact Report* (attached) using only the CI number to identify the informant.

4. Access to the informant files will be limited to the Chief and Narcotics Officer. In addition, any department member activating an informant will be allowed access to that particular informant file.

B. Use of Informants

1. Department members shall not enter any agreements with, or make any promises to, any informant concerning the final disposition of any criminal case. This consideration can only be authorized and approved by a member of the Wayne County District Attorney's Office concerning state prosecutions or a member of the United States Attorney's Office concerning federal prosecutions.
2. The use of a defendant informant will occur only after a written agreement is signed by the defendant, his/her attorney and a member of either the District Attorney's Office or the United States Attorney's Office. The form and content of the written agreement will be approved by either the Assistant District Attorney preparing the agreement or an Assistant United States Attorney.
3. Use of an informant under sixteen (16) years of age shall not occur unless the written consent of a parent or guardian is obtained.
4. Proactive use of an informant who is on probation or parole (federal or state) shall not occur unless that informant's probation or parole officer has been advised. The date and time of said notification with the response by the probation or parole officer shall be placed in the informant's file.
5. Unless approved by his/her supervisor, a member of the department will not meet with a defendant or paid informant unless accompanied by another officer.
6. Informants, except for defendant informants who are cooperating based on a written agreement, will not be equipped with any listening or recording device unless that informant gives his/her permission in writing to have their conversations overheard and/or recorded (see attached consent form).
7. Any officer identifying an informant shall advise the informant that his/her cooperation does not allow him/her to violate any state or federal laws nor is the informant justified in violating any laws in furtherance of gathering or providing information to the department. In addition, each informant shall be advised that they have no official status, implied or otherwise, as a sworn or civilian member of the department. The informant shall read and sign the *Confidential Informant Agreement* (attached).
8. When being used proactively, or when an informant's information becomes the basis for a criminal prosecution or is to be used as the basis for a search warrant, the informant shall be made aware that no guarantee can be made with regard to the confidentiality of their identity. Excluded from this is any defendant informant who is cooperating pursuant to a written agreement.
9. Prior to using information gained from an informant as the basis for a criminal prosecution or search warrant an evaluation will be made by the identifying officer with his/her supervisor to decide:
 - a) What is the informant's basis of knowledge?
 - b) Is the information received from an established and/or reliable informant?
 - c) Is the information logical and probable?
 - d) Is the information confirmed or corroborated by an independent source or through independent investigation?
10. Confirmed reliable information received from an informant and leading to arrest shall be documented on the Confidential Informant Log form.

C. Personal Contact

1. Informant(s) of the opposite sex will be met in a public place and in the company of another officer. The time, location and length of the meeting will be documented on the C.I. Contact Report.
2. Off-duty personal contact with an informant is prohibited. The officer shall refer the informant to an on-duty officer or to a time when the officer is on-duty. The officer may have telephone contact with an informant while off-duty and will document the contact.

By the Order of:

Chief of Police
David B. Smith