



LEON COUNTY SHERIFF'S OFFICE

General Order 43.6 *Confidential Informant Management and Control*

<i>EFFECTIVE:</i>	<i>REVISED:</i>	<i>RESCINDS:</i>
07 January 1997	10 July 2017	10 September 2014

A. PURPOSE: The purpose of this general order is to establish guidelines for the overall management of confidential informants to include but not limited to; recruiting, developing, selecting, utilizing, controlling and documenting. Confidential informant procedures are for the protection of the agency, and each agency member, as well as for the confidential informant.

B. SCOPE: This order shall apply to all sworn Sheriff's Office members.

C. DISCUSSION: The utilization of confidential informants is lawful and often essential to the effectiveness of properly authorized criminal investigations or intelligence-gathering activities. At the same time, such utilization carries with it special challenges and risks that warrant prudent and responsible efforts. Special care must be taken to carefully evaluate and closely supervise the use of confidential informants. Due to the inherent dangers associated with the investigations of drug-related crimes and other serious offenses, or similar concerns in any situation in which the use of a confidential informant is anticipated, a priority of such operations is the safety of the persons involved, including the public, confidential informant, agency personnel and the target offender(s). Agency operational decisions and actions regarding the use of confidential informants must keep the safety of involved persons a top priority, and agency personnel shall exercise the utmost care and judgment in order to minimize the risk of harm to all persons involved.

D. POLICY: It is the policy of the Leon County Sheriff's Office to actively recruit, develop, select, utilize, control and accurately document confidential informants in compliance with stated procedures and state statutes regarding confidential informant utilization by law enforcement; Section 914.28, Florida Statutes, also known as "Rachel's Law." Members shall adhere to agency policies and procedures regarding the use of confidential informants to ensure the safety of all involved persons.

E. DEFINITIONS:

CONTROLLED BUY - The purchase (or attempted purchase) of contraband, controlled substances, or other items material to a criminal investigation from a target offender which is initiated, managed, overseen, or participated in by law enforcement personnel with, the knowledge of the confidential informant.

CONFIDENTIAL INFORMANT – Individuals who cooperate with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and seek to avoid arrest or mitigate punishment for a crime in which a sentence will be or has been imposed; and is able by their familiarity or close association with suspected or actual criminals to;

- 1) make a controlled buy or controlled sale of contraband, controlled substances, or other items material to a criminal investigation; or
- 2) supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
- 3) provide information important to ongoing criminal intelligence gathering or criminal investigative efforts and who is, through such efforts, seeking to improve his or her status in the criminal justice system.

A person's improved status in the criminal justice system may include, but is not limited to, a reduction or modification of a sentence imposed or to be recommended to be imposed upon him or her, or a reduction or modification of charges pending or anticipated to be placed against him or her and whose association or cooperation with law enforcement must remain unknown to those about whom the information is provided or with whom one or more transactions occur.

CONTROLLED SALE - The sale (or attempted sale) of contraband, controlled substances, or other items material to a criminal investigation to a target offender which is initiated, managed, overseen, or participated in by law enforcement personnel, with the knowledge of the confidential informant.

TARGET OFFENDER - The person whom law enforcement personnel suspects will be implicated by the activities of a confidential informant.

F. Procedures for Recruitment, Individual Assessment and Management of a Confidential Informant: [CFA 15.03B]

1. The development of confidential informants is an important aspect in conducting successful law enforcement investigations. Each arrestee should be evaluated and reviewed by the arresting member for potentially serving as a confidential informant. Documenting and utilizing an individual as a confidential informant is dependent upon whether they furnish valuable/credible information needed by the agency, in exchange for consideration for substantial assistance and/or financial gain.
2. Factors to be considered in assessing the suitability of a confidential informant prior to utilization shall include an individual assessment, which shall include, but not limited to: [CFA 15.03B]

- a. The potential confidential informant's age and maturity. [CFA 15.03B]
- b. The risk potential a confidential informant poses to adversely affect a present or potential investigation or prosecution. [CFA 15.03B]
- c. The effect upon agency efforts that the potential confidential informant's cooperation becoming known in the community may have. [CFA 15.03B]
- d. Whether the potential confidential informant is a substance abuser, has a history of substance abuse, or is known by the lead investigative member, or other agency member, to be involved in a court-supervised drug treatment program or drug-related pretrial intervention program. [CFA 15.03B]
- e. The risk of physical harm that may occur to the potential confidential informant, his or her immediate family, or close associates as a result of providing information or assistance, or upon the potential confidential informant assistance becoming known in the community. [CFA 15.03B]
- f. Whether the potential confidential informant has shown any indication of emotional instability, unreliability, or of furnishing false information. [CFA 15.03B]
- g. The potential confidential informant's criminal history and/or prior criminal record, to include any pending criminal charges. [CFA 15.03B]
- h. Whether the nature of the matter being investigated is such that the use of the potential confidential informant is important, or vital, to the success of the investigation. [CFA 15.03B]
- i. The likelihood of the confidential informant to successfully complete the transaction(s). [CFA 15.03B]
- j. The pre-existing relationship of the confidential informant with the target offender(s). [CFA 15.03B]

3. Confidential Informant Administrative and Legal Requirement:

- a. To protect the identity of all agency confidential informants a restricted access master file will be maintained on all confidential informants utilized by agency members. [CFA 15.03A] [CFA 15.03D]
- b. Each potential confidential informant shall be assessed for suitability as a confidential informant. Documentation relating to the confidential informant assessment shall include, but not limited to; [CFA 15.03B]
 - 1) Biological and background information of the confidential informant. [CFA 15.03B]

- 2) Criminal history record (if applicable) of the confidential informant. [CFA 15.03B]
 - 3) A current photograph (preferably color) shall be maintained in the confidential informant's file.
 - 4) Any person who has been arrested, or has pending criminal charges, and is being considered for use as a confidential informant shall be advised of their right to legal counsel and, upon request, be afforded the opportunity to consult with legal counsel prior to performing any activities as a confidential informant. The statutory authorization to consult with legal counsel does not create right to publicly funded counsel. It shall be documented in the confidential informant's file that he or she was advised of their right to legal counsel and if a request to consult with legal counsel was made. [CFA 15.03B]
 - 5) Any person being considered for use as a confidential informant, if applicable, shall complete and sign a *Waiver of Speedy Trial* which shall be placed in the confidential informant's file.
- c. A code number shall be assigned to each confidential informant and shall be maintained with the confidential informant's file. [CFA 15.03D]
 - d. A *Confidential Informant File Security Log* book will be maintained by the Special Investigations Section supervisor(s) to document each time confidential informant files are accessed. The logbook will indicate the date, member accessing the files, the specific confidential informant file(s) that were viewed, and the member granted permission to view the file, if applicable. [CFA 15.03C] [CFA 15.03D]
 - e. The Special Investigations Section supervisor(s) will ensure maintenance, security, restriction, and controlled access to the confidential informant files and the *Confidential Informant File Security Log* book. [CFA 15.03C] [CFA 15.03D]
 - f. The Special Investigations Section supervisor(s) will ensure that any information related to a confidential informant provided to agency members, or other law enforcement officers, is limited to those having a need to know, and that the access granted is documented in the *Confidential Informant File Security Log* book. [CFA 15.03C] [CFA 15.03D]
 - g. Confidential informants shall be referred to as a confidential informant in all communications or reports concerning them, including but not limited to, *Confidential Funds Expense Justification Forms and Payment Receipts*. [CFA 15.03D] [CFA 15.03E]

- h.** Once a confidential informant is recruited, and prior to use, an intelligence check will be conducted. The results of the intelligence check will be submitted with the confidential informant file. [CFA 15.03B] The intelligence check shall include, but not limited to:

 - 1)** A warrants and a criminal history check will be conducted through the National Crime Information Center/Florida Crime Information Center (NCIC/FCIC). [CFA 15.03B]
 - 2)** A driver's license check to determine if a confidential informant is licensed to operate a motor vehicle during an agency operation. [CFA 15.03B]
 - 3)** A confidential informant shall be fingerprinted on agency approved fingerprint cards which will be maintained in the respective confidential informant file. [CFA 15.03B]
 - 4)** All confidential informants shall be checked to determine if he or she is on judicial probation. Any confidential informant that this is on judicial probation shall not be used until documented authorization is obtained from;

 - a)** the confidential informant's probation officer. If the confidential informant's probation officer is not available, a request shall be made to the probation officer's supervisor or higher authority;
 - b)** the State Attorney's Office which prosecuted the case which resulted in the confidential informant being sentenced to probation; and,
 - c)** the presiding Judge who sentenced the confidential informant to probation. If the presiding judge is not available, a request will be made to the Chief Judge, of the presiding judge's circuit, to assign a judge to review the agencies request to utilize the person as a confidential informant.
 - 5)** Any exceptions to the documented authorization required when utilizing a confidential informant that this is on judicial probation shall only be allowed if exigent circumstances exists and authorized in advance by a Judge.
 - 6)** All required documented authorizations will be maintained in the confidential informant's file.
- i.** A Special Investigations Section Supervisor shall be responsible for the file review and approval of the potential confidential informant prior to the utilization as a confidential informant. [CFA 15.03B]

- j. Confidential informant files shall be confidential and shall not be released unless authorization is given by the Sheriff, or designee. [CFA 15.03D]

4. Confidential Informant Indoctrination:

- a. Members utilizing confidential informants shall not promise inducements such as grants of immunity, dropped or reduced charges, reduced sentences or being placed on probation for serving as a confidential informant. The value of the services provided by a confidential informant can be determined only by the appropriate legal authority.
- b. Confidential informants shall be advised that they are not members of the Sheriff's Office and, therefore, do not have law enforcement arrest powers, the authority to carry a concealed firearm, or any other powers or employment privileges or rights that a law enforcement officer possesses.
- c. Confidential informants shall be instructed to furnish information exclusively to this agency and not reveal their identity as a confidential informant to anyone. [CFA 15.03D]
- d. Confidential informants shall also be instructed that their status should never be viewed as authorization for present or future misconduct.
- e. All confidential informants will be assigned a controlling member. The controlling member shall be the recruiting member unless otherwise approved by a Special Investigations Section supervisor.
- f. The controlling member shall have a mutual agreement and understanding with the confidential informant as to the investigative procedure to be used while conducting an investigation.
- g. The controlling member must ensure the confidential informant understands the *Conduct Agreement of Confidential Informants* which is a part of the confidential informant's file. This agreement shall include information on payment of confidential informants. [CFA 15.03E]

5. Confidential Informant Reliability and Precautions:

- a. Precautions must be taken to determine the reliability of confidential informants whose participation may make an investigation more susceptible to compromise or alleged improprieties. [CFA 15.03F]
- b. Prior to utilization of a confidential informant, he or she must be considered reliable. A member may be obligated, at some future court date, to furnish testimony as to the reliability of a confidential informant. As a precaution this can be accomplished by keeping a current activity report/payment report of information. Members will be required to update the confidential informant's file when they have obtained assistance from a

confidential informant. The report shall contain the following information:
[CFA 15.03F]

- 1) **Date:** This will be the date the activity was performed and;
 - 2) **Activity:** The member shall document an accurate explanation of what occurred and shall include any activity or information, pertaining to an active criminal investigation, furnished by the confidential informant whether it is validated/verified or if it is unverifiable or untrue.
- c. Members are prohibited from having an intimate, social or non-assignment related relationship with a person(s) known to them to be a confidential informant, either on or off-duty, without the express permission of the Sheriff, or designee. Members shall restrict contact, as much as possible, with confidential informants when off-duty. [CFA 15.03F]
 - d. Members shall continually evaluate the assignment related relationship the member has with the confidential informant, to ensure that a members' relationship with the confidential informant is such that it will not adversely affect the member's decisions and actions, which may be detrimental to the confidential informant, the public, the agency, agency members or the member. [CFA 15.03F]
 - e. Members utilizing confidential informants shall continually evaluate them to ensure that they are complying with established policies and procedures as well as forming an estimation of their reliability. Information received from a confidential informant shall be reviewed for consistency. [CFA 15.03F]

6. Confidential Informant Management and Control:

- a. **Communication:** Members developing confidential informants shall always attempt to introduce an alternate member to the confidential informant for purposes of maintaining a means for constant flow of information. [CFA 15.03F]
- b. **Meetings:** Members shall make every attempt to have another sworn member present when meeting a confidential informant. Members shall plan the meeting time and place so there is not a recognizable pattern. [CFA 15.03F]
- c. **Confidential Informant of Opposite Gender:** For confidential informants of the opposite gender, special precautions shall be taken to protect the reputation of the confidential informant, the member, and the agency. Due to sound and compelling reasons, no member should meet privately with a confidential informant of the opposite gender without the presence or observation of another sworn member, or prior approval of a Special Investigations Section Supervisor, or designee. [CFA 15.03F]

d. Juvenile Confidential Informants: The Sheriff's Office discourages the practice of utilizing juveniles as confidential informants. However, realizing there are situations that may dictate the use of a juvenile as a confidential informant, they may be used as long as the following precautions are adhered to:

- 1) The use of juvenile confidential informants must be approved by the Department Chief, or designee, of the unit utilizing the juvenile confidential informant. [CFA15.03G] [CFA15.03H]
- 2) When possible parental consent, in writing, must be obtained prior to a juvenile being utilized as a confidential informant. [CFA15.03G]
- 3) When possible at least two sworn members shall be utilized when meeting with a juvenile confidential informant. [CFA15.03G] [CFA15.03F]

7. Operational Plans and Safety Considerations When Utilizing Confidential Informants

a. Whenever a confidential informant is utilized during any law enforcement operation, an Operational Plan shall be completed. The operational plan shall be reviewed by the submitting member's supervisor. If the submitting member's supervisor is not available, the operational plan shall be reviewed by the supervisor assigned to oversee the operation. A review of the plan shall include, but is not limited to:

- 1) Type of Operation. (Controlled Buy, Controlled Sale, etc.).
- 2) Staging Area and Target Location.
- 3) The goals and objectives of the operation clearly stated.
- 4) Ensure the confidential informant and all assigned law enforcement members, are familiar with the target location and/or routes of travel. If a confidential informant and/or assigned law enforcement members are unfamiliar; maps, photographs and/or diagrams of the operational area and target location shall be provided.
- 5) A duress call word and/or sign, is designated and is known by the confidential informant and all law enforcement members assigned to the operation.
- 6) If applicable, an arrest call word and/or sign, is designated and is known by the confidential informant and all law enforcement members assigned to the operation.

- 7) Any intelligence reports indicating that the target offender(s) is:
 - a) armed;
 - b) has a criminal history; or,
 - c) has a history of violence and/or mental illness.
 - 8) Identification, inspection, and operational testing of specialized equipment to be used, such as surveillance monitoring equipment, to ensure operational readiness.
 - 9) Incident commander identified and known to all law enforcement members assigned to the operation.
 - 10) Communications radio channel selected and tested for use during the operation.
 - 11) Law enforcement personnel assigned to operation and vehicle description.
 - 12) Target offender's physical description, if known, vehicle description and/or known target offender's associate's vehicle description.
- b. When determining the location where an operation will occur, the location shall be evaluated for its practicality and effectiveness to complete the operational goals (Controlled Buy, Controlled Sale, etc.). Members shall select a location which minimizes the public's exposure to any known or potential hazards. Factors shall include but are not limited to:
- 1) Purpose of the site location (isolated warehouse, parking lot, school, park, shopping mall);
 - 2) Anticipated number of target offenders and uninvolved citizen's;
 - 3) Time of day/night;
 - 4) Tactical advantage for surveillance;
 - 5) Jurisdiction; and
 - 6) Road/traffic conditions for ingress/egress (two lane, four lane construction, etc.).
- c. An evaluation of the site location shall be conducted and monitored by all members at the time of, and for the duration of, the operation. Such considerations shall include, but are not limited to:

- 1) Safety of uninvolved citizen's;
- 2) Safety of the confidential informant;
- 3) Safety of all law enforcement officers involved in the operation;
- 4) Safety of the target offender; and
- 5) Identification of unanticipated events. (unrelated law enforcement presence/response to the area, road closures, pedestrian traffic, etc.)

8. Confidential Informant Treatment:

- a. Recommended rules regarding treatment and relationships with confidential informants include, but are not limited to the following:
 - 1) **Fair Treatment:** Confidential informants shall be treated with courtesy and respect, regardless of their character, education, or occupation.
 - 2) **Trust:** Members shall be scrupulous in the fulfillment of all promises which are made to confidential informants.
 - 3) **Control:** Confidential informants shall not be permitted to take charge of any part of an investigation.
 - 4) **Exposure:** Confidential informants shall not be allowed to be present at any transaction which will be used as a basis for bringing charges against the target offender(s) without the confidential informant's prior knowledge and approval. [CFA 15.03D]

9. Confidential Informant Investigative Integrity:

- a. When a confidential informant is used to obtain contraband or evidence, certain precautions need to be taken to ensure the reliability of the confidential informant and to support the criminal investigation and/or probable cause. These shall include, but not limited to the following: [CFA15.03F]
 - 1) A thorough search of the confidential informant and the confidential informant's vehicle, if applicable, to establish that contraband is not present.
 - 2) If money is used to make a controlled buy, the serial numbers shall be recorded and/or copied.
 - 3) When possible continuous visual and/or audio surveillance of the confidential informant shall be maintained.

- 4) Take control of the contraband as soon as feasible to establish that the contraband was obtained from a certain place or person.
- 5) The member shall initial and date the evidence in accordance with agency policy governing the collection/preservation of property/evidence.

10. Confidential Informant Payment and Payment Documentation:

- a. When utilizing a confidential informant, payment shall be gauged by the following: [CFA 15.03E]
 - 1) The amount necessary to pay the confidential informant to obtain the needed information.
 - 2) The level of danger the operation places on the confidential informant.
 - 3) Type of investigation.
- b. Members shall document all payments made to a confidential informant for services provided.
- c. The issuing member shall make every effort to have another sworn member present as a witness when making a payment to confidential informants. The confidential informant shall use his/her confidential informant code name or initials when signing the receipt for the payment and both members shall initial the receipt.
- d. A copy of the receipt shall be placed in an envelope and maintained in the confidential informant's file.
- e. The second copy of the receipt shall remain in the receipt book and under the member's control. The member shall insure the receipt book is secure at all times.
- f. When the receipt book is filled, it shall be secured with the confidential informant files.

11. Deactivation of a Confidential Informant:

- a. If a confidential informant becomes undesirable, or for any other reason is deactivated, members shall advise a Special Investigations Section supervisor of the situation and arrange a debriefing of the confidential informant. The reasons for, or the circumstances surrounding the confidential informant's deactivation and a plan for deactivating communications shall be documented in the confidential informant's file and reviewed by a Special Investigations Section supervisor. Cause for deactivation include, but are not limited to the following:

- 1) Ineptitude or unreliability;
- 2) Compromise of identity;
- 3) Security risk which could compromise the investigation;
- 4) Criminal risk;
- 5) Furnished false information to this agency, as a state witness, or to other law enforcement agencies;
- 6) Emotional and/or mental instability; or
- 7) Use of alcohol or controlled substance causing impairment.

12. Confidential Informant File Control:

- a. All confidential informant files shall be hand delivered to a Special Investigations Section supervisor for review and approval. These files will be secured in a locked cabinet, within a secured area in the Special Investigations Section. Access to these files shall be restricted and may be reviewed on a need-to-know basis as authorized by a Special Investigations Section supervisor. [CFA 15.03C] [CFA 15.03D]
- b. No member, other than those authorized in Section 12a, may review, possess, or read any Confidential Informant File without the authorization of the Sheriff or Chief of Staff.

13. Confidential Informant Destruction of Records:

- a. Confidential files, including information identifying confidential informants and activities conducted on behalf of this agency or other law enforcement personnel, shall be disposed of in accordance with G.O.82.1 and the state records retention schedule.

14. Training:

- a. All members involved in the use or recruitment of confidential informants shall be trained in the policies and procedures adopted by this agency for the utilization of confidential informants. Training shall be in accordance with Florida Statutes, agency policy or any other related information as specified by the Criminal Investigations Division Captain, or designee. Training may be provided through Vice Detective Training Program, classroom training, or on-line training. [CFA 15.03I]

15. Annual Review:

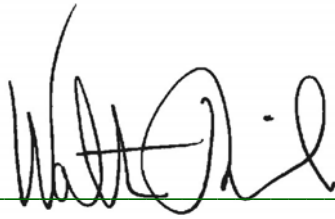
- a. A documented administrative review of actual agency confidential informant practices shall be conducted annually by the Criminal

Investigations Division Captain, or designee, to ensure conformity with agency policies, procedures, accreditation standards and Florida Statute. The review shall be in the form of a memorandum to the Sheriff and a copy shall be provided to the agency Accreditation Manager. [CFA 15.03J]

APPROVED: _____

WALT MCNEIL

SHERIFF, LEON COUNTY

A handwritten signature in black ink, appearing to read 'Walt McNeil', is written over a horizontal line.