


NORTHAMPTON POLICE DEPARTMENT Administration & Operations Manual		
Policy: Informants		AOM: O-422
Massachusetts Police Accreditation Standards Referenced: [42.2.7], [42.2.7.a&b], [42.2.7.a&c], [42.2.7.c], [42.2.7.f], [42.2.2.d&f], [42.2.7.g]		Issuing Authority <hr/> John D. Cartledge Chief of Police
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I. Introductory Discussion

The Northampton Police Department recognizes that one of the most important responsibilities of any police officer is the recruitment and development of informants. Such sources are often a prerequisite to the successful solution of many crimes and criminal enterprises and become a valuable resource to the Department. Informants may provide information that results in the prevention of violence and/or disruption of public order. The purpose of this directive is to establish guidelines for control and record keeping as it pertains to the use of Confidential Informants and the expenditure of confidential funds.

II. General Considerations and Guidelines

The courts have upheld the use of confidential informants/sources as legitimate and necessary tools for law enforcement to solve crimes and prevent criminal activity. Each police officer should be aware of the role of the confidential source and the need to develop and use the sources properly.

Police officers should cultivate all legitimate sources of information. This would include any person who provides information about criminal activity. This includes,

but is not limited to, witnesses, other police officers, anonymous tips, and persons who may reveal information through casual conversation. These persons will not go through the accountability process listed in this procedure unless the officer (or officer's supervisor) involved with the source of information need a record of credibility. [42.2.7]

The use of confidential informants requires detailed documentation and administrative control. All actions by the confidential informant must be carefully supervised to provide investigative integrity. The following procedures will provide uniformity, accountability, and protection to officers and the Department in official actions with confidential informants, and will serve to enhance the effective use of confidential informants. Although individual officers are responsible for recruiting informants, informants do not "belong" to the officer, but represent a resource of the Department as a whole. [42.2.7]

The procedures attempt a proper balance among several factors: law enforcement's dual need to utilize information from sources within the criminal community and to protect the confidentiality of these sources, the justice system's requirement that police and prosecutors establish the credibility of informants, and a Police Chief's duty to ensure a system of accountability in the handling of informants, and any monetary payments that may be made to them. (Refer to *AOM 0423 Confidential Funds* for procedures regarding monetary payments to informants.)

III. Definitions

- A. Source of Information: Any person or organization who provides information about criminal activity to the Department. This includes but is not limited to witnesses, other police officers, anonymous tips, and persons who may reveal information through casual conversation. These persons will not go through the accountability process listed in this procedure unless the officer (or officer's supervisor) involved with the source of information need a record of credibility.
- B. Paid Confidential Informant: A person who provides a police officer with information regarding a crime or criminal activity for monetary consideration.
- C. Defendant Informant: A person who provides a police officer with information regarding a crime or criminal activity for consideration in a pending criminal matter. Officers are not to enter into any agreement or promise with such a person without first notifying and receiving approval of an Assistant District Attorney, Assistant U.S. Attorney, or Attorney General having prosecutorial jurisdiction. Upon receiving such approval, the officer shall complete a report which documents the date and time of such notification, what promises or considerations were made and who granted the approval. Any declaration against interest that adds credibility to the informant shall also be noted and placed in the informant's confidential informant file.
- D. Other Informant: A person who has a criminal background, or who associates with a criminal element or with a person with a criminal background, who may or

may not have a criminal case pending and who wishes to act as an informant. Possible motivations for such informants include, but are not limited to the following:

1. Personal gratification, which may include collecting rewards.
2. Revenge.
3. Rivalry.
4. Avoiding criminal prosecution.

Note: Additional effort is required to corroborate information provided by such informants.

- E. Contact Officer: A police officer who maintains the ongoing professional relationship with a confidential source. [42.2.7]
- F. Entrapment: Activity on the part of a police officer that induces or lures an otherwise innocent person to commit a crime that they did not contemplate committing. Entrapment is a defense to criminal charges. It is the implanting of criminal intent in the mind of the person. It includes acts of persuasion, coercion, trickery, or fraud carried out by law enforcement officers or their agents to induce a person to commit a crime which they would not otherwise commit.

IV. Accountability Procedures for Sources Information and Informants [42.2.7]

A. Background Check of Confidential Informant

1. It is important to protect the identity of all confidential informants from disclosure. At the same time, the reliability of each informant needs to be established for the purpose of supporting probable cause. To accomplish these goals, each unit that utilizes confidential informants will establish a master file to be maintained in a locked and secure location. [42.2.7, a & c]
2. When an officer has developed a confidential source of information whom they intend to use again as an informant, wants to document the use of a source of information, or wants to activate informant/source of information, the officer shall:
 - a. Complete the *Informant Personal History Report*, submit it to a secured file and submit a copy of it to the Detective Bureau Commander. The completed *Informant Personal History Report* will contain:[42.2.7,a & b]
 - 1) Background information and necessary data.
 - 2) Criminal History and record (via CJIS, NCIC, and III) if any.
 - 3) Service record, if applicable; and
 - 4) Recent photograph, if applicable.
 - 5) A code name or number shall be assigned to each informant.

- b. In the event that any of the above information is not available, the Contact Officer shall submit a report to the Detective Bureau Commander indicating why such information is not available.

B. Master/Secured Confidential Informant File [42.2.7,a & c]

1. The master/investigative file will be accessible to the OIC of the Detective Bureau and their designee. The Contact Officer shall place a copy of the *Informant Personal History Report* in the secured master file. [42.2.7,c]
2. Each time an informant supplies information concerning an investigation, the Contact Officer will complete an *Informant Contact Sheet* containing a summary of the information received from the informant, whether or not the information is used at the time received, and a summary of any corroboration of the informant's information.
3. Whenever possible and practicable, the Contact Officer should introduce the confidential informant to a second officer. The name of the second officer should be given to the informant in case the Contact Officer is unavailable.
4. Officers shall keep the OIC of the Detective Bureau informed of relations and activities involving informants.
5. Association with confidential informants (CI) will be kept to a minimum, and only when necessary for effective investigative purposes. No officer will socialize with a C.I. except under working conditions.
6. Periodically, the OIC or designee, shall conduct an evaluation of the confidential informant's work performance, usefulness, and reliability.
7. If a confidential informant is deemed unsatisfactory for any reason, was of no value, or gave false information, the Contact Officer shall submit a report to be placed into the C.I. file and the Unit Commander will be notified upon completion of the report. The informant in question will not be used again without the approval of the OIC of the Detective Bureau.

C. Promises to Confidential Informants

Officers are reminded that promises cannot be made to confidential informants concerning pending court cases. The disposition of court cases is in the province of the Northwestern District Attorney's Office or the State Attorney General's or U.S. Attorney's Office of prosecutorial jurisdiction. The officer can only inform the prosecuting attorney of the information provided by the C.I. and the results of the subsequent investigation. Officers may make a recommendation to the Prosecutor's Office on behalf of the C.I.

D. Precautions with Informants [42.2.7,f]

1. Officers are to seek and accept only information which furthers investigative activities and law enforcement responsibilities.
2. The informant should be courteously treated, regardless of their character, education, or occupation.

3. The investigator should be scrupulous in the fulfillment of all ethical promises which they have made.
4. The informant should never be permitted to assume control or take charge of any phase of the investigation.
5. Meetings with informants should not be held at the police station or courthouse.
6. The circumstances surrounding a meeting should not be repeated to the extent that a recognizable pattern is created.
7. The proper name of an informant should never be used over the telephone.
8. The Contact Officer should not meet with an informant of the opposite sex unless accompanied by another officer. If a meeting is absolutely necessary and is conducted, the meeting will be as abbreviated as possible and a detailed report will be filed by the Contact Officer.
9. If it is known that an informant is on supervised probation or parole, the Contact Officer will coordinate with the informant's probation or parole officer to ensure that using the informant does not interfere with conditions of the probation or parole.
10. The Contact Officer should attempt to determine whether or not the informant is being used by another law enforcement agency and/or officer to prevent duplication of effort or interference with the other agencies investigations.
11. In order to avoid the risk that the confidential informant's identity might have to be disclosed in court (or the prosecution dropped, if it is not), contact officers should: [42.2.7,d & f]
 - a. Use informants only for introductions while having an undercover officer develop the relationship with the target and execute the transaction.
 - b. Prohibit the informant's involvement in planning an operation, and limit them to only providing information.
 - c. Not permit the informant to participate in a criminal offense, unless authorized to do so. In all cases in which an informant is authorized to participate in a criminal offense, the contact officer should instruct the informant to leave as soon as possible after negotiations or transactions begin (in a drug case).
 - d. Not permit the informant to be a witness to the criminal activity which will result in charges being brought against the suspect.
 - e. The Contact Officer must attempt to establish the credibility and reliability of information supplied by the informant. Methods include, but are not limited to:
 - 1) Assessing any information previously provided.
 - 2) Corroboration of details by other informants by police investigation.
 - 3) Surveillance; and
 - 4) The use of controlled test situations.
 - 5) All pertinent information should be independently investigated. This is particularly important in the early stages of a relationship with an informant to assist in evaluating and establishing their credibility and reliability.

E. Juvenile Informants [42.2.7,g]

1. A juvenile informant may be used if:
 - a. Officers have met and discussed the involvement with at least one parent or legal guardian.
 - b. Officers have obtained written permission from at least one parent or legal guardian.
2. In the case of a juvenile whose parents are separated or divorced, permission shall be obtained from the parent having legal custody.
3. When meeting with a juvenile informant, two officers should be present.

F. Criminal Activity by an Informant

1. Informants sometimes gain authority from police officers for participation in activity which would otherwise be criminal. Such authorization must be carefully considered. Authorization for such activity shall be as follows:
 - a. The Chief of Police or designee, and only said persons, must approve the use of an informant for activities which would otherwise be criminal. The Chief's or their designee's approval should only cover activities in which violence or corrupt action on the part of a public official is not involved.
 - b. When authorizing activity which would otherwise be criminal, the Chief of Police or designee shall attempt to ensure the following:
 - 1) There is minimal effect on innocent people.
 - 2) The informant is not the source of technical expertise or financial support.
 - 3) The informant's activity is closely monitored; and
 - 4) The informant does not directly profit from their participation beyond a plea agreement or compensation provided by the Department.
2. Unauthorized criminal activity by an informant shall be dealt with as follows:
 - a. An Officer learning of unauthorized criminal activity by an informant shall notify the Chief of Police, or designee who will in turn notify the Chief.
 - b. The Chief of Police shall:
 - 1) Decide whether or not to delay notification of appropriate law enforcement personnel.
 - 2) Decide whether or not to request appropriate authorities to delay or forego enforcement action.
 - 3) Decide whether or not to continue the use of the informant.
 - 4) The Chief of Police or designee must contact the District Attorney's Office from the affected prosecutorial office of jurisdiction if they want to delay notification of law enforcement authorities or request authorities not to take action. Only after contacting the District

Attorney shall the Chief of Police or designee make the decision to delay such notification or make such request and continue the use of the informant. Detailed records shall be maintained of any decision to delay notification or to continue the use of the informant.

- c. In determining whether or not to delay notification of authorities, the Chief of Police shall consider:
 - 1) Whether the crime is completed, imminent, or just beginning.
 - 2) The seriousness of the crime in terms of danger to life and property, or the public interest.
 - 3) Whether the crime is a violation of federal or state law, and whether it constitutes a felony or misdemeanor.
 - 4) The degree of certainty of the information regarding the informants criminal activity.
 - 5) Whether the appropriate authorities already know of the criminal activity.
 - 6) The effect that a delay of notification may have on any regional “task force” investigative activity.
- d. Under no circumstances shall any officer take any action to conceal a crime by an informant.