

## Confidential Informants

### 608.1 POLICY

Confidential Informants may be used subject to this policy to gather criminal intelligence and to further criminal investigations. Only members who have completed Department approved training may utilize confidential informants or maintain informant files. Other employees may refer persons interested in working as a confidential informant to appropriate specialized unit personnel.

### 608.2 PURPOSE

This policy addresses the selection, development, recruitment, and utilization of confidential informants and will help protect the integrity of the Vancouver Police Department and its members as well as the safety of confidential informants, law enforcement members, criminal suspects and the public.

### 608.3 DEFINITIONS

**Confidential Informant (CI)** – A person who provides criminal intelligence or investigative information on more than one occasion, whether or not the person indicates a desire to have their identity kept confidential and is under agreement with law enforcement to cooperate in return for some type of compensation (e.g., the deferment of charges or payment of monies). Agreements must be in writing. The term informant shall be given the same meaning.

**Controlling Officer** - The officer/detective responsible for the development and use of a Cooperating Individual.

### 608.4 TRAINING

Officers and Supervisors must complete a Department approved course of instruction regarding informant utilization before working with informants as a Controlling Officer or approving the use and overseeing the Controlling Officer's management of informants. Confidential informant guidelines and training material shall be kept updated by the Investigations Unit and made available to personnel.

### 608.5 USE OF INFORMANTS

The only units authorized to use Confidential Informants are Investigative Units. The Assistant Chief of the Investigations Bureau may approve exceptions outside of investigative units.

Before using an individual as a confidential informant, the following conditions must be adhered to:

- (a) Informants must be formally established and approved by the officer's on-duty sergeant before their utilization. The informant packet will then be reviewed and approved by the respective lieutenant as soon as practical within the same work week. The sergeant's approval includes an in-person meeting between the CI and sergeant prior to approval. The meeting must be documented in writing. Supervisors and lieutenants must complete a Department approved course of instruction regarding

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informant utilization before approving the use of informants. Approval documentation must be placed in the CI's file.

- (b) CI's under DOC supervision or any other court restricted status require approval from the overseeing agency. Approval documentation must be placed in the CI's file.
- (c) The Controlling Officer's Sergeant will maintain an active role in the management and handling of all CI's under their command. They will be part of the establishment process, i.e. the approval and continued inclusion in debriefings and participation in active investigations.
- (d) The re-establishment of an informant previously declared unreliable requires prior approval from the Investigations chain of command.
- (e) Informants are assets of the Vancouver Police Department, not specific officers. At their discretion, a lieutenant may transfer an informant to the control of another officer or unit. The lieutenant transferring control shall document the transfer in a memorandum and place it into the Master Informant file.
- (f) Officers utilizing informants shall minimize their access to police facilities.
- (g) Actionable information from informants shall be documented in reports, i.e. police reports, working informant files, contact logs or search warrant, unless an exception is granted specifically by an informed supervisor. An example of inconsequential information is the informant calling the handler to check in or pass along information that would not result in a warrant, controlled buy, etc.
- (h) No informant will be used until their true identity has been established. Identity can be verified by the following resources: criminal history, Department of Licensing, police reports, and AFIS.
- (i) No information shall be provided with a VPD member's personal home address or home or cell phone number. Informants should make contact through business text or business calls only, except as might occur in unscheduled field meeting.
- (j) Informants shall be advised at the outset that their confidentiality cannot be guaranteed but that is protected under RCW 5.60.060(5) and RCW 42.56.240.
- (k) The disclosure of an informant's identity shall be avoided whenever possible.

### 608.5.1 JUVENILE INFORMANTS

The Vancouver Police Department will not use persons under the age of 18 as an undercover or Confidential Informant for the purpose of collecting evidence of criminal activity. This does not restrict or prohibit personnel from accepting and utilizing intelligence type information voluntarily offered by juveniles or obtained from them during the course of an investigation. VPD personnel may actively solicit information and assistance from juveniles in the solving of a crime. Juveniles will not be placed in situations that foreseeably jeopardize their physical safety or mental health. An exception to this subsection may be granted only by Assistant Chief of the Investigations Bureau.

### 608.5.2 DEACTIVATE INFORMANT

Informants shall be deactivated when they:

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- (a) Knowingly provide false information.
- (b) Knowingly violate any provision of the informant agreement.
- (c) Any informant who has not provided information within the last six-month period shall be classified as inactive.
- (d) No longer have the potential to furnish information or services which could lead to a significant prosecution of criminal activity and will not be able to within a reasonable period of time.
- (e) Are no longer willing to cooperate with the Vancouver Police Department and its members.
- (f) Have been determined to be unsatisfactory or unreliable.
- (g) Act in any way that would be endanger life or impede or jeopardize an investigation.
- (h) Attempt to use the Department to further their own criminal objectives.
- (i) Documentation shall be included in the informant file indicating the reason(s) for deactivation. If it involves the informant being unreliable due to an officer safety issue or jeopardizing an investigation those matters shall be brought to a lieutenant. Department members shall use the Informant Closure Form for the deactivation of an informant.
- (j) If an informant deactivation was the result of their becoming unreliable, documentation shall be completed and submitted to Western States Information Network (WSIN) identifying the informant and the associated problem(s).

### **608.6 INFORMANT ESTABLISHMENT**

1. All informants shall be advised of the content of, and required to sign, the following forms:
  - (a) Special Consent Form; and
  - (b) Personal History Report.
2. Additional relevant information in establishing their credibility as an informant shall include:
  - (a) Photograph
  - (b) Criminal History Check (NCIC-III). The criminal history documents will not be maintained in any Confidential Informant files. The criminal history will be reviewed upon activation of the informant by the controlling officer, their supervisor and the approving lieutenant or commander and then destroyed pursuant to VPD Policy 812 by utilizing secured shredding bins. The controlling officer will note the review of the criminal history on the Confidential Informant Criminal History Verification Log.
  - (c) Local History Check
3. All Master Informant Files shall have the following documentation:
  - (a) Informant Background Report

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- (b) Informant Closure Form
  - (c) Informant Personal History Form
  - (d) Informant Special Consent Agreement Form
  - (e) Confidential Informant Criminal History Verification
  - (f) Informant Activity/Contact Log
4. The controlling officer will run a WSIN database check on all informants prior to utilization.
  5. Active informants need to have a criminal history run every six months to verify they are meeting the Department's active informant status. The new criminal history will be reviewed by the controlling officer and the controlling officer's supervisor, then destroyed pursuant to VPD Policy 812 by utilizing secured shredding bins. The supervisor will document the review of the six-month update on the Confidential Informant Criminal History Verification Log that is maintained in the Master Informant File.

### 608.6.1 RELATIONSHIPS WITH CONFIDENTIAL INFORMANTS

No member of the Vancouver Police Department shall knowingly maintain a social relationship with a Confidential Informant while off duty, or otherwise become intimately involved with a Confidential Informant. Members of the Vancouver Police Department shall neither solicit nor accept gratuities nor engage in any private business transaction with a Confidential Informant.

To maintain officer/informant integrity, the following must be adhered to:

- (a) Personal social contact with an informant is prohibited.
- (b) Personal social contact with a known felon is prohibited, except as permitted by Department policy.
- (c) Officers shall not withhold the identity of an informant from their superiors.
- (d) Identities of informants shall otherwise be kept confidential.
- (e) Criminal activity by informants shall not be condoned.
- (f) Informants shall be told they are not acting as police officers, employees or agents of the Vancouver Police Department, and that they shall not represent themselves as such.
- (g) The relationship between officers and informants shall always be ethical and professional.
- (h) Social contact shall be avoided unless necessary to conduct an official investigation, and only with prior approval of their supervisor.
- (i) Controlling officers shall not meet with an informant alone. Informants will always be met by no less than two commissioned police personnel, both for corroboration and for backup.

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- (j) The disbursement of Investigative Funds and payments to Confidential Informants shall comply with all procedures outlined in this policy and **Policy 607 – Investigative Funds**.
- (k) Payment of any monies to an informant shall be witnessed by the controlling officer and at least one other officer.

### **608.7 MAINTAINING INFORMANT FILE SYSTEM**

All informant files, when actively being used, shall be maintained in a locked container, cabinet or drawer as follows:

1. Maintenance and Security of Informant Files:
  - (a) The Chief of Police shall designate a commissioned employee to serve as the Informant Files Custodian.
  - (b) Unless otherwise designated, the Investigations Lieutenant will serve as the Informant Files Custodian.
  - (c) The Informant Files Custodian shall be responsible for the maintenance and security of all Master Informant files.
  - (d) Separate files shall be maintained on each informant and shall be maintained in a secure area segregated from other files.
  - (e) Access to the Master Informant files for update and review purposes will occur only under the authority of the Informant Files Custodian who will document, name, rank/job title, employer, date of access and reason for the file review.
  - (f) Master and Working Informant files are confidential and shall not be disclosed. Exceptions are:
    - i. Court order
    - ii. Prior approval by Chief of Police, Deputy Chief, Assistant Chief, Commander or Lieutenant
    - iii. To a Prosecuting Attorney or designee, if a file is related to prosecution or consideration for prosecution.
2. Working Informant Files:
  - (a) A separate working file shall be established for each informant.
  - (b) These files shall be stored in a location, segregated from any other files and shall include all Informant Activity Logs and copies of any Funds Use/Receipts used in conjunction with the informant. This log and shall be updated as officers and supervisors work with the informant.
  - (c) Forms are located in the forms section of the VPD Intra-net.
3. Informant Number
  - (a) Each informant shall be designated an informant number by the Master Informant File Custodian.

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4. Informant papers files will be retained by the custodian for one year after the date of closure.
  - (a) Files will then be purged and documented in the CI File Destruction Record.

### 608.8 INFORMANT BUYS

Each buy will be controlled in the following manner:

1. The informant will have a non-invasive strip search conducted before and after each controlled buy. The search will be conducted by an officer of the same gender identity as the CI who is being searched. This search will be documented in a police report. This record will include who conducted the search, where it was conducted, the privacy of the search, and who witnessed the search. The CI must consent to the search.
2. If the informant's vehicle or residence is used in the investigation, officers search those areas to which the informant had access. The CI must consent to the search. This search will be documented in a police report. The informant must consent to the search.
3. VPD prohibits informants from using personal funds to buy contraband. Officers take all personal funds from the informant prior to contact with the suspect to avoid error. A receipt will be given to the informant. The personal funds shall be returned to the informant upon completion of the buy. The informant will sign the receipt indicating the personal funds have been returned. The removal and return of the informant's personal funds shall be witnessed by another officer.
4. Continuous surveillance will be conducted on the informant after the search and until he/she meet officers to be debriefed.
5. The informant shall then be thoroughly searched again. All evidence and buy funds will be retrieved from the informant.
6. Following the buy, officers retrieve all evidence and Investigative Funds from the informant. Officers debrief the informant, write a police report, and submit it for supervisor approval, and process all evidence pursuant to Department policy.

#### 608.8.1 INFORMANT PAYMENT PROCEDURE

Each payment made must follow this procedure;

1. Officers must follow the procedures outlined in this policy and **Policy 607 – Investigative Funds**.
2. Officers must obtain approval from their supervisor prior to paying an informant. Payments to informants less than \$250.00 must be approved by a supervisor. Payments over \$250.00 must be approved by a lieutenant.
3. The control officer shall only hold meetings for payment to an informant when another officer can be present to witness, both for corroboration and for backup.
4. Payment of any monies to an informant shall be witnessed by the controlling officer and at least one other officer.

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5. No informant will be told in advance or given an exact amount or percentage for services rendered or property seized. The amount of funds to be paid to any informant will be evaluated against the following criteria:
  - (a) Nature and complexity of the investigation.
  - (b) Impact of the investigation to the community.
  - (c) Past reliability and work record.
  - (d) Willingness to testify in court.
  - (e) Usefulness of the information provided.
6. Informants will generally not be paid until completion of their services, unless approved by the unit supervisor.
7. Officers will not promise an informant a fixed sum of money without supervisory approval. Payment will not be based on a contingency agreement or on a percentage or property seized.
8. All expenses going out to informants will be accounted for in the following manner:
  - (a) Receipt number
  - (b) Date of payment
  - (c) The amount of payment
  - (d) The Confidential Informant number
  - (e) The case number and type of case if applicable
  - (f) The reason for payment
9. All Funds/Use Receipt forms will be signed by the informant, paying officer and witnessing officer, who sees payment being made. The CI's full name shall be used, as initials - CI's numbers or nicknames are not acceptable. The Funds/Use Receipt form will be used for all payments with informants.
10. The yellow copy of the Funds/Use Receipt form will be provided to the unit supervisor.
11. The unit supervisor will attach the Fund/Use Receipt forms to the VPD Custodian Level Funds Disbursement Record form upon reconciliation of funds with unit lieutenant.
12. The Controlling Officer shall record the amount of payment on the Informant Activity and Contact Log.
13. The controlling officer will record the payment in the Informant Activity and Contact Log
14. Funds Use/Receipt copy with all required signatures including the informant signature will be hand delivered to the Investigations Lieutenant for inclusion in the Master Informant File. This shall occur as soon as practical but no later than fifteen (15) calendar days following completion of payment.
15. The remaining copies of the Funds Use/Receipt form will be distributed as noted on the form.

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### **608.8.2 REPORTING OF PAYMENTS**

Each Confidential Informant receiving a cash payment shall be informed of their responsibility to report the cash to the IRS as income. If funds distributed exceed \$600 in any reporting year, the Confidential Informant should be provided IRS Form 1099 (26 CFR § 1.6041-1). If such documentation or reporting may reveal the identity of the Confidential Informant and by doing so jeopardize any investigation, the safety of peace officers or the safety of the Confidential Informant (26 CFR § 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the Confidential Informant shall be advised the amount they must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of this notification. The acknowledgement shall be documented on the Informant Special Consent Agreement form and retained in the Confidential Informant's file.

### **608.9 AUDIT**

The Investigations Division shall conduct an annual audit of confidential informant files, both those kept at the District/Unit and the confidential informant central file.

Such audit shall ensure that:

- A. Confidential Informant files are properly maintained and include all necessary documentation, i.e., payment receipts, debriefing reports, Confidential Informant cards, photographs, informant working agreements, criminal history checks (BOP), etc.
- B. Documents required to be forwarded to the confidential informant central file and/or to the Chief, Bureau of Investigative Services, or his/her designee, are being delivered in a timely and prescribed manner.