

	Operational General Order	8.05 Confidential Informants and Sources of Information	PAGE 1 OF 7
	SUBJECT		EFFECTIVE DATE
	<b>Virginia Beach Police Department General Order</b> <b>Chapter 8 - Criminal Investigations</b>		<b>07/17/2018</b>
			ORIGINATOR/REVIEW
DISTRIBUTION		Investigative Division	
ALL		CALEA: 42.2.6	
BY THE AUTHORITY OF THE CHIEF OF POLICE:		<i>James A. Coonan</i>	

## Purpose

To establish guidelines for handling individuals who provide information to Police which may be helpful in investigations but are unidentified or seek to have their identities protected to include Confidential Informants (CI) and Sources of Information (SOI) by both Investigative (Detectives) and Operations (Uniform) personnel.

## Definitions

**Anonymous Tipster-** Any person that is not under the direction of law enforcement, wishes to remain anonymous, and supplies information on a single event or on a non-routine basis. This person does not have an active role in an investigation.

**Source of Information (SOI) -** An individual, who is not under the direction and control of law enforcement and because of his/her business position or other situation, is able to furnish information of criminal or intelligence value, but who does so on a confidential basis. He/she performs this service without compensation (except for reimbursement of actual expenses incurred in gathering the information furnished). He/she is differentiated from a confidential informant because they are not an associate of violators or recidivists, nor are they on the fringe of the criminally active community.

**Confidential Informant (CI)-** Any person who is acting under the direction and control of law enforcement, has an active role in the investigation, and provides information that is useful for investigative purposes. In return for such information, the person has expectations of receiving something of benefit such as financial gain or reduction or dismissal of criminal charges.

## Policy (CALEA 42.2.6 F)

The Virginia Beach Police Department encourages sworn personnel to develop and seek criminal intelligence through the development of confidential informants and sources of information, and to provide for this resource within a controlled system to avoid abuse and minimize adverse impact. Anonymous Tipsters, Sources of Information, and Confidential Informants are resources for the Virginia Beach Police Department, and are not considered personal resources of a particular officer or detective. Officers and Detectives have the responsibility to ensure the information provided to them by any anonymous tipster, source of information, or confidential informant is forwarded to the appropriate investigative unit, via the Chain of Command.

Common sense, logic, and reasonableness will guide each department member in the documentation and handling of CI's or SOI's. No CI or SOI will be met unless there are two detectives/officers present for the entire meeting. This is to insure the integrity of the detectives/officers and the Department in the event the CI or SOI should allege misconduct at a later date. This policy is not meant to document every person a police officer or detective interacts with. However, if a person supplies information on a regular basis, or

supplies information that is utilized to further an investigation such as in an affidavit for a search warrant, the CI or SOI will be documented. If an officer or detective cannot make the determination they should confer with their immediate supervisor for guidance.

Considerations regarding the use of Confidential Informants in an authorized investigation:

1. The risk that the use of a CI in a particular investigation may result in actions contrary to instructions; the CI may violate an individual's rights, intrude upon privileged communications, or compromise the investigation and/or subsequent prosecution.
2. The nature and seriousness of the operation under investigation and the likelihood that the information which a CI can provide is not readily available through other sources or by direct means.
3. The character and motivation of the CI; that is, his/her past or potential involvement in the matter under investigation or in any other criminal activity, his/her proven reliability, or the availability of the means to verify information which he/she provides.
4. The measure of the ability of the police to control the CI's activities when he/she is acting on behalf of the Department and to ensure that his/her conduct will be consistent with his instructions and the law.
5. The potential value of the information the CI may be able to furnish in comparison to the consideration the CI may be seeking from the police for his/her cooperation.
6. Remember, if the CI is acting under your direction (thus an agent of the police), then his/her actions are governed by the same laws as if they were a police officer.

**Documentation**

**Source of Information Documentation**

Members of the Virginia Beach Police Department are not required to document every person that offers general information on a sporadic nature. SOIs are assumed to be persons from all segments of society who provide criminal intelligence information or investigative information on a voluntary but confidential basis. SOI's will always be met and/or interviewed by two sworn officers. Detectives/Officers may not authorize an SOI to engage in any criminal acts, nor to offer, provide, or agree to furnish immunity or protection against arrest or prosecution for future or past crimes. SOIs shall not be paid to provide information or services. This does not prevent reimbursing SOIs for actual expenses incurred; provided they furnish appropriate receipts and prior approval is obtained from a supervisor. Documentation of SOI's is required when the following criteria are met:

- a. The SOI supplies information that is utilized for a probable cause such as in a search warrant or arrest warrant.
- b. The SOI calls on a regular or repetitive nature to supply information.

Detectives/Officers will document the SOI with the following information/documents: Biographical and background information utilizing a SOI cover sheet (PD-140).

- a. The Detective/Officer will be responsible for creating and maintaining an activity file folder for each SOI. The activity file folder will include the SOI number on the file tab, an expenditure

control record for actual expenses incurred will be on the left side of the folder and a SOI activity log and the completed SOI Cover Sheet (PD-140) on the right side of the folder

- b. The SOI code number and alias designator (obtained from the Command Logbook) will be used to identify the SOI in reports, search warrant affidavits, and other correspondence.
- c. The folder will be stored in a secure location as designated by the Commanding Officer.

#### **Confidential Informant Documentation (42.2.6 B, C, D)**

Detectives/Officers will document the CI with the following information/documents:

1. Biographical and background information utilizing a CI cover sheet (PD-140)
2. Police Department records management system information (if applicable)
3. Photograph of the informant
4. Informant Conduct Agreement (PD-159)
  - The CI should read and initial each statement to ensure the understanding and acknowledgement of the restrictions and the parameters of working with the Virginia Beach Police Department.
5. If on probation or parole, the documenting detective/officer shall notify the appropriate probation or parole office by use of the departmental form letter (PD-160).
6. Parental or guardian permission form if a Juvenile Informant is utilized (Form PD-158).
  - Commanding Officer must give prior approval to utilize a Juvenile Informant or Source of Information

The Commanding Officer or his designee will review the materials for completeness and accuracy. In the presence of the assigned detective/officer, the Commanding Officer or reviewing supervisor will place the information in a manila envelope. The envelope will be sealed at all seams, and the supervisor and detective/officer will place their signature and document the current date on the exterior of the envelope. A CI number and alias designator will be assigned from an unused number from the precinct / bureau informant logbook. For identification purposes, the CI code number and alias designator will be printed on the envelope. The sealed envelope will then be stored in a secure location by the Precinct/Bureau Commanding Officer or his/her designee.

The CI code number and alias designator will be used to identify the CI in reports, search warrant affidavits, and other correspondence.

The documenting detective or officer will also prepare an activity file folder for each CI. The activity file folder will include the CI number on the file tab, an expenditure control record on the left side of the folder and a CI activity log on the right side of the folder. CI Activity File Folders will be maintained in a secure location as designated by the Commanding Officer of the specific command.

- The expenditure control record will contain all payments made to the Confidential Informant. Each payment will be itemized to show the exact amount and the date the Confidential Informant was paid for each occurrence.
- Funds paid to CIs or SOIs will require receipt documentation.
  1. At the time of payment, a CI or SOI must affix his/her signature to the appropriate portion of the Confidential Informant (CI) Distribution of Funds form. This form will be completed and forwarded to a supervisor within 24 hours. With the approval of a supervisor, the CI or SOI may affix his/her alias name or assigned number as noted in his CI or SOI file to the form. The amount of money paid to the CI or an SOI (for actual expenses incurred) will be noted in the CI or SOI's expenditure control form in his/her CI or SOI file.
- The informant activity log will contain the following information:
  - The date and time of the initial contact.
  - Information received from the informant.
  - The Informant's involvement in an investigation.

### **Command Documentation (CALEA 42.2.6 A, C)**

#### **Logbooks**

Each Command will be responsible for having a logbook for the documentation of Sources of Information and a separate logbook for the documentation of confidential informants. Each logbook will contain a command issued code number for either the SOI or CI and a command issued alias name for the CI. Both logbooks will be stored in a secure location within the command.

#### **Activity Files**

Each Command will maintain an activity file for the SOI activity file folders, and a separate activity file for CI activity file folders. Access to the files will be permitted on a 24 hour basis for supervisory members of the department who will retrieve, or authorize the retrieval of individual files for updating by the documenting detective/officer. Access will only be allowed to detectives/officers as needed for the performance of their official duties.

#### **CI Information Files**

Each Command will maintain a secure file that will contain the sealed personal information packet completed on each confidential informant by the documenting detective/ officer. Access to this file will be restricted to the Commanding Officer, or his designee, of the organizational component only.

### **Procedures for Handling Certain Types of CI's or SOI's:**

#### **Restricted Use Informants**

Any individual that is on active probation or parole requires a notification letter (PD-160) to be sent to their probation or parole officer to inform them of the intentions of utilizing their client in a CI or SOI capacity. The probation and parole officer will notify the Officer/Detective if they object to their client being involved in this type of activity. If an objection is noted by the probation and parole office, the subject will

not be utilized. In regards to a SOI/CI that is on active probation/parole and there is no notice of objection noted by the Probation/Parole office, they will be documented in the same manner described above.

### **Incarcerated Informants**

Recognizing the need to develop information that would solve past crimes or present crimes from being committed, utilization of criminal/incarcerated informants is an essential tool to the investigator. When an investigator is approached by an individual that is in custody asking for consideration of a lower bail, plea negotiations or reduction in a sentence, the following guidelines are established to aid in the handling of an incarcerated informant:

1. The investigator should obtain the criminal record of the individual and contact the arresting officer to consult as to the type of offense committed, the seriousness of the offense, and any information that the officer needs to develop the case.
2. The investigator will contact his immediate supervisor who will evaluate the benefit to be derived as a result of the information.
3. Where applicable, the supervisor or case detective will contact the Commonwealth Attorney handling the case and explain the benefits to be derived.
4. Once the approval of the Commonwealth Attorney has been obtained the detective/officer can obtain a full debriefing
5. Once the Investigator has obtained authorization from the supervisor, the Commonwealth Attorney, and the defense attorney, the requesting investigator shall be designated as the control officer for the informant.
6. If conflict arises between the investigator and the informant which makes the usefulness of the informant counterproductive, the supervisor will terminate any contact with the individual or establish a new control officer.

In the event there are criminal charges in more than one jurisdiction, the investigator will follow the same procedures with the exception that either the supervisor or the Commonwealth Attorney will contact the Commonwealth Attorney in the respective jurisdiction. After an agreement has been reached with other jurisdictions, the investigator will not relinquish control of the informant without the consent of a supervisor. The informant will be controlled at all times by one control officer. At no time will there be two separate agencies controlling the same individual. Informants that fall within this category shall be documented in the same manner as described above to ensure consistency.

### **Juvenile Informants/Sources of Information**

Any individual who meets any of the following criteria may be used with prior approval of the Precinct/Bureau Commanding Officer:

1. Persons less than 18 years of age may only be utilized with the approval of a Commanding Officer of the affected Command and with the written consent of a parent or legal guardian. The Detective/Officer will physically meet with the parent(s) and/or guardian, to verify the relationship, identity, and consent of said parent(s) or legal guardian(s). The Detective/Officer shall complete

the Parental Acknowledgement Form (PD-158) and have the parent/guardian sign the consent form. The completed form and CI/SOI packet shall be forwarded to the Commanding Officer for review and written approval.

2. Prior to utilizing any juvenile in an informant or source of information capacity, a complete background investigation will be conducted to include, but not limited to:
  - Prior arrest record
  - Probation or Parole status
  - Any indication of mental instability

#### **Documentation of Juvenile Informants (CALEA 42.2.6 G)**

1. Juvenile CI/SOI shall be documented in the same manner described above with the exception that their CI/SOI control number will end with the letter J. (Example: SI-001-J).
2. The CI/SOI file shall be maintained in a separate secure location within the responsible command.

#### **Disqualified Informant/Source of Information**

Detectives/Officers will submit to their immediate supervisor a memorandum requesting to the disqualification of any SOI/CI. The memorandums will remain on file in the SOI or CI logbook for future reference. No disqualified SOI/CI will be returned to the active files without the approval of the Precinct/Bureau Commanding Officer. Disqualified SOI/CI will be removed from the list of approved information sources and the following restrictions will apply to any future contact:

1. Detectives/Officers will not initiate any type of contact with the disqualified SOI or CI after their removal from the active files.
2. If a disqualified SOI/CI initiates contact, they will be immediately notified that their information is no longer being accepted by the Police Department and they are not to engage in any conduct or activity on behalf of the Department.
3. If a disqualified SOI/CI still attempts to provide information regarding criminal activity, this information by itself will not be used to establish reasonable suspicion, probable cause, or to justify any other enforcement actions. If the Detective or Officer can independently establish reasonable suspicion or probable cause through personal observations, information from other SOI/CI's or other investigative means, then investigative actions may be taken.

#### **Payments to Confidential Informants/Sources of Information (CALEA 42.2.6 E)**

The criteria for payment to a CI will be decided by the Detective/Officer's immediate supervisor in conjunction with the Precinct/Bureau Commanding Officer and will be based on the importance of the crime, the value of the information, and the availability of funds. Payments will be made only with Department authorized funds and will not be made until after the information has provided positive results. The Precinct/Bureau Commanding Officer must approve any exceptions.

If the funds are paid out of a Command's confidential fund, the following procedure will be utilized.

1. The Commanding Officer of each Bureau/Precinct will be responsible for maintaining control of the Department's confidential funds and shall maintain an accountability system.
2. Prior to making any payment from the confidential fund, a request will be made by the Detective/Officer to their immediate supervisor.
3. Two sworn Detectives/Officers will meet with the SOI (for actual expenses incurred)/CI and make the approved payment. As soon as possible after the payment, but no more than 24 hours later, a receipt will be submitted that includes the following information: IBR case number, date, names of Detectives/Officers making the payment, informant's name or code number and/or alias designator, amount of payment, purpose, and any action taken. A receipt signed by the SOI/CI will be obtained for funds paid.
4. Any expenditure of over \$2,000 will be approved by the Chief of Police or his designee except in cases involving Special Investigations. The spending limits for Special Investigations have been set by the Deputy Chief of the Investigative Division in accordance with direction from the Chief of Police.

#### **Deactivation/Purging of CI and SOI Files**

The Commanding Officer of the Bureau/Precinct or his designee shall review the CI and SOI files and activity folders every twelve (12) months to purge/deactivate inactive CI's and SOI's. A CI or SOI will be purged/deactivated when their potential to aid the Department in criminal investigations ceases. The decision to purge/deactivate a CI or SOI will be between the investigator and his supervisor due to known information relating to the informant's failure to follow established guidelines or lack of productivity. CI's or SOI's will be deactivated and the associated files purged when:

1. They no longer have the potential to furnish information or services, which could lead to a prosecution of criminal activities.
2. They are no longer willing to cooperate or follow the rules of conduct.
3. Their cooperation has been determined to be unsatisfactory.
4. They have been inactive with no contact for at least one year.

All deactivated files shall be purged from the Active file and will be converted to a digital format utilizing current technology for storage in accordance with the Virginia Public Records Act. Prior to purging the CI/SOI's information and activity files, the control officer/detective must confirm that the CI/SOI is not currently involved in any civil litigation involving a criminal investigation or police actions.