

Informants

603.1 PURPOSE AND SCOPE

This purpose of this policy is to provide guidelines for the use of informants.

603.1.1 DEFINITIONS

Definitions related to this policy include:

Informant - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with the Montgomery County Sheriff's Office for law enforcement purposes. This also includes a person agreeing to supply information to the Montgomery County Sheriff's Office for a benefit (e.g., a quid pro quo in the form of a request to the District Attorney for reduced criminal penalty, money).

603.2 POLICY

The Montgomery County Sheriff's Office recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this office that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

603.3 USE OF INFORMANTS

603.3.1 INITIAL APPROVAL

Before using an individual as an informant, a deputy must receive approval from his/her supervisor. The deputy shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Deputies of this office should not guarantee absolute safety or confidentiality to an informant.

603.3.2 INFORMANTS UNDER THE AGE OF 18

The use of informants under the age of 16 is prohibited.

The use of an informant who is in the process of an undercover purchase of illegal Narcotics, and has a minor child involved in any way in the investigation is prohibited.

The use of an informant who is in the process of purchasing illegal Narcotics, and is under the age of 18 years of age is prohibited.

Except for the enforcement of laws related to the commercial sale of alcohol or tobacco products, the use of any informant between 16 years of age and 18 years of age is not permitted.

In all cases, an informant between 16 years of age and 18 years of age may only be used as an informant with the written consent of each of the following:

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- (a) The informant's parents or legal guardians
- (b) The informant's attorney, if any (Verbal consent by their attorney shall suffice.)
- (c) The court in which the informant's case is being handled, if applicable
- (d) The Sheriff or the authorized designee

603.3.3 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated office informant agreement. The deputy using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

1. If an informant is currently on active probation they are required to provide:

- a. Approval by an assistant district attorney.
- b. Written approval by a district or superior court judge.
- c. Approval by a probation officer supervisor.

603.4 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the Sheriff, Investigation Director or their authorized designees.
 - 1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
- (b) Criminal activity by informants shall not be condoned.
- (c) Informants shall be told they are not acting as sheriff's deputies, employees or agents of the Montgomery County Sheriff's Office, and that they shall not represent themselves as such.
- (d) The relationship between Deputies and informants shall always be ethical and professional.
 - 1. Deputies shall not become intimately involved with an informant or the informant's family members.
 - 2. Social contact shall be avoided unless it is necessary to conduct an official investigation.
 - 3. Deputies shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) In all instances when office funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
- (f) Since the decision rests with the appropriate prosecutor, deputies shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

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- (g) Since the decision rests with the appropriate prosecutor, deputies shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

603.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Deputies who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any Deputy. The supervisor shall determine whether the informant should be used by the Office and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor may document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

- (a) The informant has provided untruthful or unreliable information in the past.
- (b) The informant behaves in a way that may endanger the safety of a deputy, witnesses of the public.
- (c) The informant reveals to suspects the identity of a deputy or the existence of an investigation.
- (d) The informant appears to be using his/her affiliation with this office to further criminal objectives.
- (e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
- (f) The informant engages in any other behavior that could jeopardize the safety of deputies or the integrity of a criminal investigation.
- (g) The informant commits criminal acts subsequent to entering into an informant agreement.

603.5 INFORMANT FILES

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of Deputies or the reliability of the informant.

Informant files shall be maintained in a secure area within the Drug Enforcement Unit. The Criminal Investigation Director or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Sheriff, Investigation Director, or their authorized designees.

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An audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

603.5.1 FILE SYSTEM PROCEDURE

A separate file shall be maintained on each informant. An informant history that includes the following information shall be prepared for each file:

- (a) Name and aliases
- (b) Date of birth
- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
- (d) Photograph
- (e) Current home address and telephone numbers
- (f) Current employers, positions, addresses and telephone numbers
- (g) Vehicles owned or operated / registration information
- (h) Briefs of information provided by the informant and his/her subsequent reliability
 1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- (i) Name of the deputy initiating use of the informant
- (j) Signed informant agreement
- (k) Update on active or inactive status of informant

603.6 INFORMANT PAYMENTS

The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant

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603.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

- (a) Payment of \$500 and under may be paid in cash from a Narcotics Division buy/expense fund.
 - (a) 1. The payment must be witnessed by another investigator or deputy.
 - 2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
- b. Payments exceeding \$500 shall be paid in cash from the Narcotics Division buy/expense fund.
 - (a) 1. The payment must be witnessed by Narcotics Division Captain or Narcotics Lieutenant.
 - 2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
 - (a) The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
- c. To complete the payment process for any amount, the deputy delivering the payment shall complete a cash transfer form.
 - (a) (a) The cash transfer form shall include the following:
 - (a) Date
 - (b) Payment amount
 - (c) Montgomery County Sheriff's Office case number
 - (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
 - (b) The cash transfer form shall be signed by the informant.

603.6.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income.

603.6.3 AUDIT OF PAYMENTS

The Narcotics Division Captain or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

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At least once every six months, the Sheriff or the authorized designee will conduct an audit of all informant funds for the purpose of accountability and security of the funds. Records regarding the funds and all related documents (e.g., petty cash records, cash transfer forms, invoices, receipts and logs) will be provided to the auditor, with the identity of any informant redacted, to assist with the audit process.