

## **POLICY #603 INFORMANTS**

### **603.1 PURPOSE AND SCOPE**

The 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 Waseca County Sheriff's Office for law enforcement purposes. This also includes a person agreeing to supply information to the Waseca County Sheriff's Office for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

### **603.2 POLICY**

The Waseca 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.

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

#### **603.3.2 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.

### **603.4 GUIDELINES FOR HANDLING CONFIDENTIAL INFORMANTS**

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

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

#### **603.4.1 UNSUITABLE INFORMANTS**

1. The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members 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 member. 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 shall 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.
- 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**

1. 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 office members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Drug Task Force. The Drug Task Force supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Sheriff, Sergeant, Drug Task Force supervisor or their authorized designees.

The Investigation Sergeant should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the Drug Task Force supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. 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 and shall be coded with an assigned informant control number. 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 and registration information
- h. Places frequented
- i. 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.
- j. Name of the deputy initiating use of the informant
- k. Signed informant agreement
- l. Update on active or inactive status of informant

#### **603.6 INFORMANT PAYMENTS**

No informant will be told in advance or given an exact amount or percentage for his/her service. 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

The Drug Task Force supervisor will discuss the above factors with the Patrol Sergeant and recommend the type and level of payment subject to approval by the Sheriff.

#### **603.6.1 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. If funds distributed exceed \$600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of deputies or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant's file.