

Informants

602.1 PURPOSE AND SCOPE

Best Practice MODIFIED

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

602.1.1 DEFINITIONS

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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 California Department of State Hospitals (DSH) for law enforcement purposes. This also includes a person agreeing to supply information to DSH.

602.2 POLICY

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DSH recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process.

602.3 USE OF INFORMANTS

Agency Content

Before using an individual as a confidential informant, an officer must receive approval from the Hospital Police Chief or designee. The officer/investigator shall compile sufficient information through a background investigation in order to determine the reliability, credibility and suitability, of the individual, including age, maturity and risk of physical harm. Officers shall not utilize DSH patients as confidential informants.

602.3.1 INITIAL APPROVAL

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Before using an individual as an informant, an officer must receive approval from his/her supervisor. The officer 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.

DSH employees should not guarantee absolute safety or confidentiality to an informant.

602.3.2 JUVENILE INFORMANTS

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The use of informants under the age of 13 is prohibited.

Except for the enforcement of laws related to the commercial sale of alcohol or tobacco products the use of any juvenile 13 years of age or older as an informant is only permitted when authorized by court order (Pen. Code § 701.5).

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In all cases, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

- (a) The juvenile's parents or legal guardians
- (b) The juvenile's attorney, if any
- (c) The court in which the juvenile's case is being handled, if applicable
- (d) The Hospital Police Chief or designee

602.3.3 INFORMANT AGREEMENTS

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All informants are required to sign and abide by the provisions of the designated DSH informant agreement. The officer 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.

602.4 RELATIONSHIPS WITH CONFIDENTIAL INFORMANTS

Agency Content

No DSH employee shall knowingly maintain a social relationship with a confidential informant while off duty, or otherwise become intimately involved with a confidential informant. DSH employees shall neither solicit nor accept gratuities nor engage in any private business transaction with a confidential informant.

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

- (a) Officers/investigators shall not withhold the identity of an informant from their superiors
- (b) Identities of informants shall otherwise be kept confidential
- (c) Criminal activity by informants shall not be condoned
- (d) Informants shall be told they are not acting as hospital officers, employees or agents of DSH or OPS, and that they shall not represent themselves as such
- (e) The relationship between officers/investigators and informants shall always be ethical and professional
- (f) Social contact shall be avoided unless necessary to conduct an official investigation, and only with prior approval of the Investigations supervisor
- (g) Officers/Investigators shall not meet with informants of the opposite sex in a private place unless accompanied by at least one additional officer or with prior approval of the Investigations Supervisor. Officers/Investigators may meet informants of the opposite sex alone in an occupied public place such as a restaurant, or other suitable location.

602.5 INFORMANT INTEGRITY

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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 Hospital Police Chief, Watch Commander, Investigations supervisor 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 hospital officers, employees or agents of DSH, and that they shall not represent themselves as such.
- (d) The relationship between DSH employees and informants shall always be ethical and professional.
 - 1. Employees shall not become intimately involved with an informant.
 - 2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Investigations supervisor.
 - 3. Employees shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Investigations supervisor.
 - 1. Officers may meet informants alone in an occupied public place, such as a restaurant.
- (f) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

602.5.1 UNSUITABLE INFORMANTS

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The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. DSH employees 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 employee. The supervisor shall determine whether the informant should be used by DSH 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 an officer.
- (c) The informant reveals to suspects the identity of an officer or the existence of an investigation.

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- (d) The informant appears to be using his/her affiliation with DSH 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 officers or the integrity of a criminal investigation.
- (g) The informant commits criminal acts subsequent to entering into an informant agreement.

602.6 FILE SYSTEM PROCEDURE

Agency Content

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) (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
 - (a) 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 officer initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

The informant files shall be maintained in a secure area within the OPS facility. These files shall be used to provide a source of background information about the informant, enable review and evaluation of information given by the informant, and minimize incidents that could be used to question the integrity of officers/investigators or the reliability of the confidential informant.

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Access to the informant files shall be restricted to the Hospital Police Chief, a Lieutenant, the Investigations Supervisor, or their designees.