



# Fitchburg State University Police Department

<b>Subject:</b> CONFIDENTIAL INFORMANTS	
Reference: IACLEA: 13.2.2 MPAC: 42.2.7	
<b>Effective Date:</b> February 11, 2021	<b>Review Date:</b>
<b>By Order of:</b> Michael J. Cloutier, Chief of Police	

## General Order

# 13.2.1

**PURPOSE:**

The purpose of this policy is to define the utilization of confidential informants by members of the Fitchburg State University Police Department. This includes the definition of confidential informants, their recruitment and maintenance, as well as record-keeping and special precautions. The procedures contained herein are to be followed to allow this important resource to exist within a controlled and restricted system.

**POLICY:**

The department may develop and use confidential informants (CI's) as well as other sources of information to enhance efforts to detect, investigate and prosecute violators of state and local law. Confidential Informants will only be used when no other means are available to conduct an investigation.

*IACLEA 13.2.2.a*

**DEFINITIONS:**

A confidential informant is any person who provides information to the department on a single, continuing or regular basis, often for monetary or other lawful consideration, and wishes his/her identity to remain confidential. This does not include "concerned citizens" who provide information on an informal or casual basis.

**PROCEDURE:**

**Disqualification for Confidential Informants**

- A. Confidential informants can provide specific information that is simply not available from other sources. However, the informants. If not properly managed, can render a law

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enforcement investigation useless, destroy an agency's credibility, and even endanger officers' lives. As such, the following individuals will not be considered or utilized by the Fitchburg State University Police Department as C.I.s.

1. Juveniles;
2. Individuals with any warrants (M.G.L c268 s.32);
3. Individuals with a criminal record for perjury;
4. Persons with a history of serious mental disorder;
5. Persons with substance abuse issues should be carefully supervised and controlled.
6. Parolees should be avoided whenever possible. Parolees are prohibited from associating with felons; approval from the informant's parole officer is required.

*IACLEA 13.2.2.b*

### Registration of Informants

- A. Officers assigned to patrol who are seeking to use an individual as a confidential informant should advise their sergeant.
- B. The sergeant shall then consult with the Chief, to determine if the use of the proposed informant is of value to the department. If there is potential for the informant, then the Chief or his/her designee/department detective will interview the potential informant and make a decision on the status of the potential informant.
- C. When a person indicates a willingness to cooperate and provide information, s/he will be interviewed by the Chief or his/her designee/department detective. As soon as practical they will:
  1. Investigate the background and suitability of the potential informant;
  2. The Confidential Informant must meet reliability standards set forth in **Aguilar–Spinelli**;
  3. The Confidential Informant must provide information that is deemed relevant and useful by the investigating officer;
  4. Any individual to be used as an confidential informant must be approved by the Chief of Police.

*IACLEA 13.2.2.c*

### Identity Protection

- A. Protecting the identity of all informants from disclosure is important. At the same time, the reliability of each informant needs to be established for the purpose of supporting probable cause. Case law stipulates that the "Governed privilege" not to disclose the identity of an informant have long been recognized in the Commonwealth. This privilege, which is not absolute, should be "respected as far as reasonably possible, consistent with fairness to a defendant" (Commonwealth v. Douzanis).

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- B. Information on a confidential informant **will not be shared** with the rest of the department unless knowledge is required for the safety of officer.
- C. The Chief shall maintain a master file for all confidential informants utilized by the department. This file shall be locked in a secure location accessible only to the Chief. This file must include:
  - 1. Code Name and Code Number designations;
  - 2. Biographical and background information;
  - 3. Criminal history records;
  - 4. The standard confidential informant forms mentioned above; or notations as to why any of those forms were not utilized;
  - 5. Other information deemed necessary by the Chief or Operations Lieutenant.
  - 6. Periodically, the Chief shall evaluate the informant's work performance, usefulness, reliability, and desirability.
- D. Investigator's files will be in the care and custody of the Chief during an ongoing investigation and may be temporarily released to the detective for investigative purposes but are to be returned by the end of the working day. The Chief may authorize the files to remain in the care and custody of the detective for an extended period if needed for the investigation.
- E. Inactive informant files will be maintained in accordance with the record retention schedule of the commonwealth. Any files to be purged in accordance with the Commonwealth's record retention schedule will be disposed of in a manner to maintain the confidentiality of the informant.

*IACLEA 132.2.d, g, & h*

### **Expenditures**

- A. The Chief must approve any amount of compensation to a confidential informant.
- B. Payment to the confidential informant will generally be made by the investigating officer. Meetings with confidential informants, including meeting to make payments, will be documented in the informant's case file.
- C. Cases where the expenditure may exceed \$500 (for example, if this department offers a large reward for information related to an investigation), requires the approval of the Chief.
- D. An audit will be conducted on an annual basis by the Chief of all informant related expenditures. Audits, other than the annual audit, may be conducted at any time.
- E. The means of payment (i.e. cash, visa card, etc.) will be determined by the Chief.
- F. At now no time will favors, permission to commit a crime, or leniency be a substitute for information without prior written permission from the District Attorney's office.

### Activity Tracking

- A. The primary handler of each confidential informant shall maintain an informant activity record, and assure that current copies are forwarded to the Chief for inclusion in the master file.
- B. Non-primary handlers having contact with a CI not assigned to them shall notify the primary, to assure timely recording of the CI activity.

### Undesirable Informants

- A. If a registered informant endangers officers, or deliberately gives false or misleading information, or is otherwise determined to be undesirable for use as a informant, the designated handler must submit a report detailing the undesirable conduct to the Chief.

### Promises to Informants

- A. Officers may make recommendations to a prosecutor's office, probation officer, or other criminal justice agency for a disposition on behalf of the informant. Officers may inform the prosecuting attorney or other agency of the information provided by the informant and the results of the investigation. Officers cannot make a promise to an informant concerning the outcome of a pending court case. The disposition of court cases is in the jurisdiction of the prosecutor's office and the Court.
- B. Confidentiality cannot be promised when consideration is requested from the Office of Student Conduct.

### Precautions

- A. Confidential informants may sometimes gain authorization, by acting as agents of the police, to participate in an activity that may otherwise be criminal. Such authorization must be carefully considered, and judiciously granted. Factors to consider include the potential for violence, the effect on innocent people, the department's ability to efficiently supervise the informant, and the objective of the investigation.
- B. In the event that any officer uncovers information that an informant has engaged in unauthorized criminal activity, s/he must notify the Chief who shall conduct an immediate evaluation of the information and take such action as s/he deem necessary and appropriate.
- C. When an informant is involved in unauthorized criminal activity, every effort will be made to prosecute the informant, when prudent.
- D. Whenever possible and practical, meetings with informants must be attended by two officers; and with prior notification of the Chief, or as soon as practical thereafter.
- E. Contact or introductions between informants; and with any other undercover officers; should be minimized when possible, to protect the integrity of personnel and operations.
- F. Association with informants should be kept to the minimum necessary for effective investigation purposes.


- G. If any officer associates with an informant, when not on duty or during the course of an investigation, they shall notify their supervisor as soon as practical and document the reason for such association in the informant's file.

IACLEA 13.2.2.f

**Search Warrants**

- A. Search warrant applications and affidavits containing information from an informant must be reviewed and approved by a supervisor before filing the application with the court.
- B. Any special state police officer seeking a search or arrest warrant from a court of competent jurisdiction to be served at a location not within the statutory jurisdictional boundaries of the employing agency, shall notify the Department's Troop Commander, or his or her designee, in the County where the warrant will be served, prior to service of the warrant.
- C. A special state police officer serving an arrest or search warrant, at a location not within the statutory jurisdictional boundaries of the employing agency, shall be accompanied by a sworn member of the Department, or if authorized by the Troop Commander, or his or her designee, a sworn member of a local police department of competent jurisdiction. In no case shall an arrest or search warrant be served by a special state police officer of any agency, at a location not within the agency's jurisdictional boundaries, without a sworn member of the Department or a sworn member of a local police department present at time and place of service, excepting instances of articulable exigent circumstances.
- D. A qualified officer of each agency noted in M.G.L. c. 22C, §§ 56 through 68, shall report the following information monthly to the Department for each warrant issued. Type of warrant, warrant number, reason for issuance, authorizing Court, names of arrestees, locations of buildings, dwellings or vehicles searched and identity of the sworn member of the Department or local police department present at time of warrant service. Only those search and/or arrest warrants which agencies have applied for at courts of competent jurisdiction by submission of affidavits or sworn statements are required to be reported in this manner.

Approval:

  
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Chief of Police

02/11/2021  
Date